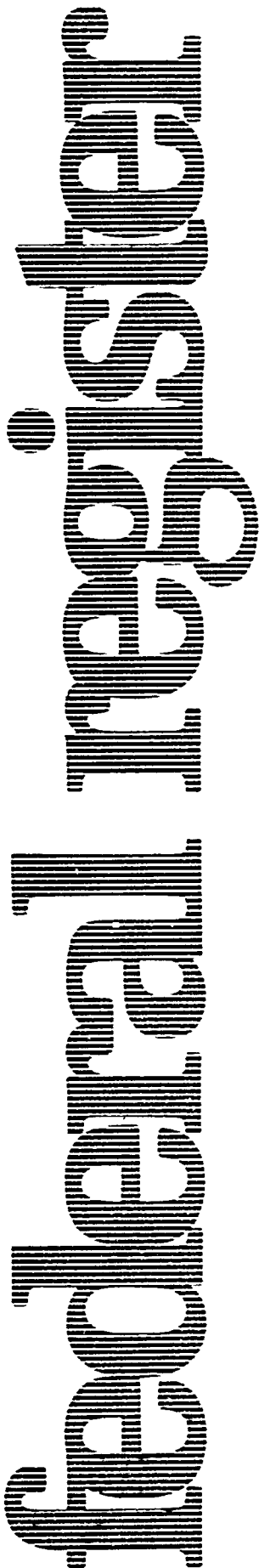

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Highlights

- 34024 State and Local Educational Agency Grants** HEW-OE amends regulations governing awards for elementary and secondary school health education projects; comments by 8-13-79 (Part II of this issue)
- 33913 Coal Miner's Respiratory Clinics** HEW/PHS/HSA proposes to develop regulations governing program grants
- 33913 Risk Reduction Grants** HEW/CDC develops procedures and requirements applicable to Health Education
- 34048 Federal Disaster Assistance** HUD/FDAA adds a new subpart to its regulations in order to implement Floodplain Management and Protection of Wetlands; comments by 8-13-79 (Part IV of this issue)
- 34034 Agricultural Trade Development and Assistance** State/AID prescribes terms and conditions governing transfer of food commodities; effective 6-13-79 (Part III of this issue)
- 33884 Federal Contracting Programs** SBA proposes to assist small businesses; comments by 8-13-79

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- 34078 Historic Properties** Historic Preservation Advisory Council offers programs concerning accessibility of handicapped; comments by 7-13-79 (Part VI of this issue)
- 33962-33973 Older Americans** HEW/OE announces 8-13, 8-27, 9-4, and 9-20-79 as closing dates for receipt of grant applications for certain programs. (7 documents)
- 33953 Peaceful Uses of Atomic Energy** DOE/Secy announces proposed "subsequent arrangements" between the United States government and Republic of Korea government
- 33961 Public Education Desegregation Awards** HEW/OE accepts sex desegregation assistance applications for certain states; closing date 7-27-79
- 33913 Case Assistance, Medical Assistance, and Social Service Programs** HEW drafts regulations on fair hearings process for applicants and recipients
- 33960 Occupational and Adult Education Bureau** HEW/OE requests suggestions concerning leadership activities, research ideas, and documentation of need; comments by 8-1-79
- 33917 Foster Grandparent and Senior Companion Programs** ACTION revises the schedule of income eligibility levels; effective 6-6-79
- 33962 Administration for Native Americans** HEW/HDSO accepts applications for training and technical assistance program grants
- 33827 Peanut Warehouse Storage Loans and Handler Operations** USDA/CCC provides terms and conditions for eligible producers; effective 6-13-79
- 33847 Retail Electric Service** DOE/FERC implements and establishes procedures governing collection and reporting of cost information; effective 7-15-79
- 34021 Sunshine Act Meetings**

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- 34024** Part II HEW/OE
- 34034** Part III State/AID
- 34048** Part IV HUD/FDAA
- 34060** Part V Interior/GS
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- 34082** Part VII Interior/FWS

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1446

General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: These regulations provide the terms and conditions under which producers acting through their associations may receive price support on their eligible peanuts through warehouse storage loans for the 1979 and subsequent crop peanuts. Producers and handlers may market peanuts in accordance with the provisions of this subpart. This revision is necessary so that the program may be administered more effectively.

EFFECTIVE DATE: June 13, 1979.

FOR FURTHER INFORMATION CONTACT: Dalton J. Ustynik, (ASCS), 202-447-6761.

SUPPLEMENTARY INFORMATION: A notice that the Department was preparing to make determinations with respect to these provisions was published in the Federal Register on April 27, 1979 (44 FR 24854). The comment period expired on May 29, 1979; however, all written comments received through June 2, 1979 were considered. There were 31 written responses: 8 from members of Congress; 3 from farm organizations; 5 from peanut grower groups; 5 from sheller organizations and shellers; 6 from individuals; one from the Peanut Administrative Committee; the Florida State ASC Committee and two from manufacturers.

On May 22, 1979, a group of producers and handlers from the Virginia-Carolina

and Southeastern peanut production areas met with Department officials. Recommendations made at this meeting were given consideration by the Department and are discussed in this analysis of comments. A summary report of the meeting is on file with comments received directly by the Department.

On May 23, 1979, a hearing on these proposals was held before the Oilseeds and Rice Subcommittee of the Agriculture Committee of the House of Representatives. Consideration was given by the Department to the written testimony presented to the Subcommittee by representatives of one grower organization, one farm organization and one sheller organization. Copies of this testimony are on file with comments received directly by the Department.

Following is a summary of the major provisions on which comments were received:

Sec. 1446.3(o) *Farmers stock peanuts.* One commentator approved, one disapproved, and one requested clarification of the proposal to define loose shelled kernels as farmers stock peanuts. Currently, producers are required to market loose shelled kernels (those kernels which have become free of the shell and may be damaged or coated with dirt or other foreign material) with other inshell farmers stock peanuts. There has been no provision for inspection of these kernels if they are removed from the load. The provision to define loose shelled kernels as farmers stock will be adopted so that growers may remove these kernels, have them inspected, and sell them at market value (which is usually higher than the loan value of 7 cents per pound). Removal of the lower quality loose shelled kernels will enhance the quality and value of the inshell peanuts from which they have been removed.

Sec. 1446.3(z) *Edible Export Standard for Contract Additional Peanuts.* One commentator approved and none disapproved of the proposal to provide that raw or inshell peanuts of any grade exported for human consumption shall meet the requirements as specified in the outgoing quality regulations of the peanut marketing agreement for such crops. This provision will be adopted in order

to make compliance uniform with quota peanuts moving in edible export trade.

Sec. 1446.3(ff) *Peanut Products.* Two commentators approved and none disapproved of the proposal to add a definition of peanut products but one suggested that the definition be clarified. The definition will be added with the clarifications as suggested.

Sec. 1446.3(hh) *Peanut segregations.* One respondent approved and none disapproved of the proposal to define Segregation 2 and 3 peanuts as Segregation 1 peanuts when purchased under "buy back" provisions for domestic edible and related (seed) use for pool accounting purposes. This provision will be adopted so that profits returned to growers will more accurately reflect commercial demand for Segregation 2 and 3 peanuts sold under the buy back provision.

Sec. 1446.3(ll) *Raw peanuts.* One respondent approved and none disapproved of the proposal to add the definition of raw peanuts. This definition will be adopted.

Sec. 1446.5(a) *Contracts between handlers and producers.* Amended to delete from contract provisions the language that the amount of segregation 1 peanuts required to be delivered shall not exceed the difference between the farm base production poundage and the sum of the farm poundage quota and the quantity of additional peanuts covered by prior contracts.

Sec. 1446.5(b) *Deliveries under optional provisions of the contract.* Three respondents approved and none disapproved of the provision under which a producer retains the right to market Segregation 1 peanuts as quota peanuts in lieu of delivering them under a contract, to the extent that the farm poundage quota has not been filled. This provision will be adopted.

Sec. 1446.7 *Use of additional peanuts as domestic edible peanuts.* The proposed change would have increased from one to two work days, excluding Saturdays, Sundays and Federal holidays, following the day of inspection for completing the paperwork associated with purchases under the "immediate buy back" provision. In response to four recommendations for a longer time period, the period will be extended from two to three workdays. One respondent opposed extending the time period beyond one workday.

1446.8(b) *Method of determining compliance.* A proposed change would delete the provision that shellers may account for commingled additional peanuts on a shelled basis. One respondent favored this proposal and none disapproved the changes. The proposal will be adopted to eliminate substantial handler reports and recordkeeping requirements from the regulations.

Sec. 1446.9(d) *Replacements.* A proposed change would have permitted handlers to use additional peanuts as quota peanuts for which approval was not previously given, provided the handler pays CCC a penalty of 120 percent of the quota loan rate for such peanuts. When the handler established to the satisfaction of CCC that a like amount of quota peanuts was exported the penalty would be refunded. One respondent favored this proposal, other respondents favored a bond or other acceptable security, and one opposed permitting handlers to use additional peanuts as quota peanuts before a like amount of quota peanuts were sold as additional peanuts. Considering all comments, it has been determined that handlers may furnish a letter of credit in an amount not less than 120 percent of the basic quota support rate of the quantity of peanuts to be replaced. If satisfactory evidence is not presented to the association by the final date for exportation the association will draw against the letter of credit the full amount of the marketing quota penalty applicable to any quantity of peanuts on which an accounting was not made.

Sec. 1446.10(i) *Ineligible peanuts.* One respondent approved and one opposed a provision which will enable CCC to assess liquidated damages for ineligible peanuts placed under loan. Opposition was on the grounds that the provision would be burdensome on administration of the program and would not provide any counterbalancing effects. The provision will be retained because commingling of ineligible peanuts (those containing excess moisture, foreign material, or other contamination) with other loan stocks causes a deterioration in average quality of the stocks and results in losses to CCC. Assessment of damages in such instances will enable CCC to recover such losses.

Sec. 1446.14(b) *Additional support.* Under current regulations, all peanuts containing more than 10 percent moisture and/or foreign material are ineligible for price support. It was proposed that an exception be made on foreign material in the case of additional peanuts if a handler agrees to purchase

such peanuts under the immediate buy back provision. Also that exceptions be made for both moisture and foreign material on Segregation 2 and 3 peanuts to be sold without storage for crushing or fragmentation for export, up to a maximum determined appropriate by the producer association, based on the crushing market and other local conditions. Five respondents favored and one opposed the proposal. The objector is opposed to any redefinition of quality standards of eligible peanuts as to moisture and foreign material. The proposal will be adopted in order to reduce both compliance and economic burdens to the producer in specific instances which do not involve storage.

Sec. 1446.15 *Disposition and liquidated damages on Segregation 3 peanuts.* This provision has been amended to delete Segregation 2 peanuts from the "antishopping" procedures contained in that section. One commentator approved and one opposed this amendment, which will be retained as a means of reducing compliance and economic burdens to the producer. Segregation 2 peanuts do not create a hazard to health or the integrity of the support and inspection programs.

It was also proposed to amend this section to prohibit producers from attempting to reclean peanuts graded as segregation 3 peanuts on the day of initial inspection. Farmers would be required, as a condition of continued loan eligibility, to dispose of such peanuts, as specified in this section, on the day in inspection. There was considerable opposition to this proposal as presented. However, most respondents (9) were in favor of the proposal, provided the discount on segregation 3 peanuts transferred from additional to quota loan pools was reduced from \$50 to \$25 per ton. The consensus appears to be that a reduced discount was needed to offset the economic hardship to producers no longer permitted to reclean segregation 3 peanuts. The proposed procedure for disposition of segregation 3 peanuts will be retained. The recommendation to make an offsetting reduction in the segregation 3 discount, from \$50 to \$25 per ton, will be adopted and included in the forthcoming annual crop supplement pertaining to loan rates, premiums and discounts.

Sec. 1446.16 *Producer transfers of additional loan stocks to quota pools.* The proposed change in this section was to specify that only Segregation 2 and 3 additional loan stocks may be transferred to quota pools. No comments were received on this proposal.

However, two respondents recommended that growers be permitted to make such transfers immediately on delivery, rather than after marketings have been completed. The change limiting transfers to Segregation 2 and 3 peanuts will be adopted. The recommendation to permit immediate transfers is rejected because this would be contrary to the intent of the disaster program by permitting transfers whether or not producers suffered quality problems which reduced the production of segregation 1 peanuts to below the farm poundage quota.

In addition to comments on changes proposed by the Department, the following recommendations were received:

Sec. 1446.3(hh) *Peanut segregation.* One respondent recommended no change in the definition of segregation 2 peanuts with regard to freeze damage. No changes will be made, because eliminating freeze damage as a grade factor could cause freeze damaged peanuts to be classed as segregation 1 peanuts. Such peanuts would have to be sold for crushing causing substantial costs to CCC.

Sec. 1446.9 *Compliance by handlers of contract additional peanuts.* Two respondents recommended that certification be accepted in lieu of supervision in determining compliance with the regulations governing disposition of contract additional peanuts. This recommendation was rejected because supervision is considered necessary to assure timely compliance, maintain the identity of restricted peanuts, and avoid unnecessary costs to the Department of verifying the authenticity of alternative documents.

Sec. 1446.9(d) *Replacements.* Six commentators recommended that replacement of different sized shelled peanuts between domestic and export markets be allowed and two respondents opposed such change. This recommendation was not adopted since it was not authorized by law, particularly section 359(h) of the Agricultural Adjustment Act of 1938, as added by the Food and Agriculture Act of 1977, which authorizes the interchange of quota and additional peanuts only if they are of "like type and segregation or quality." The statutory scheme was devised to prevent the blending of the export and crushing markets and the domestic edible market which receive different levels of price support. If additional peanuts of lower quality are permitted to move into the domestic edible market, some price erosion might occur in that

market. The structure of the legislation was designed to prevent price erosion of this kind, with the potential for added expense to the Government because of the higher level of support in the domestic edible market.

Sec. 1446.9(j) *Export provisions and handling of additional contract peanuts.* One respondent recommended that additional peanuts be considered exported upon delivery at cold storage warehouses. This recommendation was rejected since it was determined that CCC could not effectively control the exportation of these peanuts and some additional peanuts could enter domestic channels if supervision were relaxed.

Sec. 1446.11 *Pooling and distribution of net profits.* Seven respondents recommended that "buy back" pools be established separately from the additional segregation 1 pools. Under such a provision, profits on sales of additional peanuts for domestic edible and related use under the immediate buy back procedure could not be retained to offset losses on quota pools of the same type. Whether such a recommendation could legally be adopted is questionable in view of Section 108(c)(2) of the Agricultural Act of 1949, as amended, which provides in part that net gains from the sale of additional peanuts for domestic food and related uses shall be used to offset any loss on disposition of all peanuts in the pool for quota peanuts and the fact that the Secretary informed Congress at the time this legislation was being considered that he intended to use area pools. Furthermore, it is hereby determined that the adoption of such a recommendation, if legally permissible, would not be desirable since it would not result in the efficient and effective administration of the peanut price support program and would probably result in increased losses to the Government.

Final Rule

7 CFR 1446.1-1446.16 and the title of this subpart of Part 1446 are amended to read as follows effective for the 1979 and subsequent crops.

Subpart—General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations.

General

- Sec.
1446.1 General statement.
1446.2 Administration.
1446.3 Definitions.

Handler Operations

- 1446.4 Handler operations.

Sec.

- 1446.5 Contracts for additional peanuts for crushing and export.
1446.6 Commingling quota and additional peanuts.
1446.7 Use of additional peanuts as domestic edible peanuts.
1446.8 Compliance by handlers of contract additional peanuts.
1446.9 Supervision and handling of additional contract peanuts.

Warehouse Storage Loans

- 1446.10 Availability of warehouse storage loans.
1446.11 Pooling and distribution of proceeds.
1446.12 Producer indebtedness.
1446.13 Eligible producers.
1446.14 Eligible peanuts.
1446.15 Disposition and liquidated damages on segregation 3 peanuts.
1446.16 Producer transfers of additional loan stocks to quota pools.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 108, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1421); sec. 359, 52 Stat. 31, as amended (7 U.S.C. 1359).

Subpart—General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations General

§ 1446.1 General statement.

(a) *Scope.* This subpart sets forth conditions under which producers and handlers may trade in 1979 and subsequent crop(s) peanuts. This subpart also sets forth the terms and conditions under which eligible producers acting collectively through specified marketing associations (referred to severally in this subpart as "the association") may obtain price support on their 1979 and subsequent crop farmers stock peanuts. Eligible farmers stock peanuts produced by eligible producers which are quota peanuts shall be eligible for price support at the quota support rate. Farmers stock peanuts which are not quota peanuts shall be eligible for price support at the additional support rate. Additional peanuts may only be marketed through contracts with handlers or by being pledged to Commodity Credit Corporation ("CCC") for loans. Annual supplements to this subpart will specify support prices, and other terms and conditions not contained in this subpart which are applicable to the warehouse storage loan program for peanuts of a particular crop.

(b) *Price Support Advances.* Producers may obtain price support loans at the rates specified in the applicable annual supplement through the applicable

association. Each association will make appropriate loan advances on peanuts delivered to it by producers at warehouses operating under peanut receiving and warehouse contracts with the association. CCC will make a loan (referred to in this subpart as a "warehouse storage loan") to the association. Such loan will be secured by peanuts received by the association.

(c) *Farm storage loans and purchases from producers.* Regulations containing the terms and conditions under which CCC will make farm storage loans directly to producers and purchases directly from producers on any crop farmers stock peanuts will be published separately in the Federal Register.

§ 1446.2 Administration.

(a) *Responsibility.* Under the general direction and supervision of the Executive Vice President, CCC, and the Producer Associations Division, Agricultural Stabilization and Conservation Service (ASCS) will administer this subpart.

(b) *Limitation of authority.* State and county committees or their employees and the associations have no authority to modify or waive any of the provisions of this subpart or any amendments or supplements thereto.

(c) *Supervisory authority.* No delegation of authority in this subpart shall preclude the Executive Vice President, CCC, or the Executive Vice President's designee from determining any questions arising under the regulations or from reversing or modifying any determinations made pursuant to such delegation.

§ 1446.3 Definitions.

As used in this subpart, and in instructions and documents in connection herewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the content or subject matter otherwise requires.

(a) *Additional peanuts.* Any peanuts which are marketed from a farm other than peanuts marketed or considered marketed as quota peanuts.

(b) *Additional support rate.* The support rate published in annual crop supplements to this part applicable to additional peanuts.

(c) *ASCS.* The Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

(d) *Association.* An area marketing association which is operated primarily for the purpose of conducting loan activities and which is selected and

approved for such activities by the Secretary.

(e) *CCC*. The Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture.

(f) *Compliance regulations*. The Regulations Governing Acreage and Compliance Determinations for Farm Marketing Quotas, Acreage Allotments, and Related ASCS Programs, as amended, issued by the Administrator, ASCS, and effective for the applicable crop, Part 718 of this title.

(g) *Contract additional peanuts*. Additional peanuts for crushing or exporting, or both, on which a contract has been entered into between a handler and producer in accordance with § 1446.5.

(h) *County committee*. Persons elected within a county as the county committee under the regulations governing the selection and function of Agricultural Stabilization and Conservation county and community committees in Part 7 of subtitle A of this title, except that for Puerto Rico and the Virgin Islands, the Caribbean Area Agricultural Stabilization and Conservation committee shall insofar as applicable, perform the functions of the county committee.

(i) *County office*. The office of the county ASC committee where records for the farm are kept.

(j) *Domestic edible use*. Use for milling to produce domestic food products or seed and use on the farm.

(k) *Effective farm allotment*. The effective farm peanut acreage allotment for the applicable crop of peanuts, as defined in the peanut marketing quota regulations, Part 729 of this title.

(l) *Effective farm poundage quota*. The effective farm poundage quota for the applicable crop of peanuts as defined in the marketing quota regulations, Part 729 of this title.

(m) *Extra large kernels*. Shelled Virginia type peanuts which are "whole" and free from "minor defects" and "damage" as such terms are defined in the U.S. Standards for Shelled Virginia type peanuts effective on the date of inspection and which will not pass through a screen having 21.5/64 by 1 inch openings.

(n) *Farm*. A farm, as defined in the Regulations Governing Reconstitution of Farms, Allotments, and Bases, Part 719 of this title.

(o) *Farmers stock peanuts*. Picked or threshed peanuts produced in the United States which have not been changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the condition in which

picked or threshed peanuts are customarily marketed by producers, plus any loose shelled kernels removed by producers from farmers stock peanuts.

(p) *Final acreage*. The acreage on the farm from which peanuts are picked or threshed as determined and adjusted under Part 718 of this title.

(q) *Form MQ-94 and Form FVQ-95*.

(1) *Form MQ-94*. Inspection Certificate and Sales Memorandum for farmers stock peanuts.

(2) *Form FVQ-95*. Federal-State Inspection Service, Peanut Inspection Note Sheet.

(r) *Handler*. Any person or firm who acquires peanuts through a business of buying, shelling, or drying peanuts.

(s) *Inspector*. A Federal-State inspector authorized or licensed by the Secretary, U.S. Department of Agriculture.

(t) *Lot*. That quantity of farmers stock peanuts for which one MQ-94 or other inspection certificate is issued. In case of farmers stock peanuts delivered to the association for a loan advance, a lot shall consist of not more than the content of one vehicle, or two or more vehicles containing approximately 24,000 pounds.

(u) *Marketing cards*. Forms MQ-76 issued each year according to Part 729 of this title by ASCS county offices to growers for use in marketing peanuts of the applicable crop. Each Form MQ-76 shall indicate the farm operator's eligibility for quota price support and the pounds that may be marketed as quota peanuts and contract additional peanuts.

(v) *Marketing quota penalties*. The penalties prescribed in the marketing quota regulations, Part 729 of this title, which shall be computed and collected in accordance with those regulations.

(w) *Marketing quota regulations*. The Allotment and Marketing Quota Regulations for Peanuts of the 1978 and Subsequent Crops, as amended, issued by the Administrator, ASCS, Part 729 of this title.

(x) *Marketing year*. The period beginning on August 1 of the year in which the peanuts of the applicable crop are planted and ending on July 31 of the following year.

(y) *Net weight*. That weight of farmers stock peanuts obtained by deducting from the gross scale weight of the peanuts (1) foreign material, and (2) moisture in excess of seven percent in the Southwestern and Southeastern areas, and eight percent in the Virginia-Carolina area.

(z) *Edible export standard for contract additional peanuts*.

(1) Raw shelled or inshell peanuts of any crop exported for human consumption shall meet such U.S. grade requirements, or modifications thereof, or requirements as to wholesomeness as specified in the outgoing quality regulations for such crop in the Marketing Agreement for peanuts No. 146.

(2) Peanuts shown by the applicable Federal-State Inspection Certificate to deviate from these requirements may be exported if the handler certifies to the association that such deviations are acceptable (i) to the export buyer and (ii) under the Marketing Agreement.

(aa) *Eligible country*. Any destination outside the United States, other than any country or area for which a validated export license is required under regulations issued by the Bureau of International Commerce, unless such license for shipment or transshipment thereto has been obtained from the Bureau, except that neither Canada nor Mexico shall be considered an eligible country for the export of peanut products other than treated seed peanuts.

(bb) *Export and exportation*. A shipment of peanuts or peanut products from the United States directed to a destination outside the United States to become part of the mass of goods of the country of destination.

(cc) *Fragmented peanuts*. Peanuts not more than 20 percent of which are whole kernels which will not pass through the following openings, by type: Spanish $1\frac{1}{4} \times \frac{3}{4}$ inch slot; Runner $1\frac{1}{4} \times \frac{3}{4}$ inch slot; and Virginia $1\frac{1}{4} \times 1$ inch slot.

(dd) *Loan value*. The amount of the loan which may be obtained under these regulations on a lot of eligible farmers stock peanuts computed for quota or additional peanuts, as applicable, on the basis of the weight, quality, and the support values for such type appearing in the applicable crop supplement.

(ee) *Peanut meal*. Any meal, cake pellets, or other forms of residue remaining after extraction or expulsion of oil from peanut kernels, but not including pressed peanuts.

(ff) *Peanut Products*. Any products manufactured or derived from peanuts such as but not limited to peanut candy, peanut butter, peanut granules or peanut flakes.

(gg) *Peanut receiving and warehouse contract*. Form CCC-1028 Identity Preserved, Form CCC-1028-A, Commingled Storage, or any other form approved by CCC for this purpose.

(hh) *Peanut segregations*—(1) *Segregation 1*. Farmers stock peanuts which (i) have at least 99 percent peanuts of one type, (ii) have not more

than two percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay, nor more than 0.5 percent freeze damage, and (iii) are free from visible *Aspergillus flavus* mold;

(2) *Segregation 2.* Farmers stock peanuts which (i) have less than 99 percent peanuts of one type, or (ii) have more than two percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay, or more than 0.5 percent freeze damage, and (iii) are free from visible *Aspergillus flavus* mold; *Provided however*, if such peanuts are placed under additional loan and purchased under the immediate buy back procedure, as provided in § 1446.7 of these regulations, such peanuts shall be considered Segregation 1 additional peanuts for loan pool accounting purposes.

(3) *Segregation 3.* Farmers stock peanuts which have visible *Aspergillus flavus* mold. *Provided, however*, if such peanuts are placed under additional loan and purchased under the immediate buy back procedure as provided in § 1446.7 of these regulations, such peanuts shall be considered Segregation 1 additional peanuts for loan pool accounting purposes.

(ii) *Pools.* Accounting pools established by the association and on which complete and accurate records are maintained by area, by type, and by segregation for quota peanuts and additional peanuts not under contract.

(jj) *Quota peanuts.* Peanuts which are eligible for domestic edible and related use, are marketed or considered marketed from a farm as quota peanuts, and which are not in excess of the farm poundage quota.

(kk) *Quota support rate.* The support rate published in annual crop supplements applicable to quota peanuts.

(ll) *Raw Peanuts.* Inshell, shelled peanuts, or blanched peanuts which have not passed through any other processing operation.

(mm) *Sound mature kernels.* Kernels which are free from "damage" and "minor defects" as defined in the U.S. Standards for the applicable type of peanuts effective on the date of the inspection, and which will not pass through screens with the following openings:

Runner type: $1\frac{1}{4} \times \frac{3}{4}$ inch slot
Spanish type: $1\frac{1}{4} \times \frac{3}{4}$ inch slot
Virginia type: $1\frac{1}{4} \times 1$ inch slot

(nn) *Type.* The generally known types of peanuts (i.e., Runner, Spanish,

Valencia, and Virginia), as defined in the marketing quota regulations.

(oo) *United States.* The 50 States of the United States, Puerto Rico, the territories and possessions of the United States, and the District of Columbia.

(pp) *United States government agency.* Any corporation wholly owned by the Federal Government, and any department, bureau, administration, or other agency of the Federal Government.

(qq) *Valencia type peanuts produced in the Southwest suitable for cleaning and roasting.* Valencia type peanuts produced in the Southwest containing not more than 25 percent having shells damaged by (1) discoloration, (2) cracks or broken ends, or (3) both.

Handler Operations

§ 1446.4 Handler responsibilities.

(a) *Examination of producer's marketing card.* All handlers shall examine producer's marketing cards and record each purchase or delivery of peanuts as required in part 729 of this title. Any peanuts delivered under the additional peanut contract (Form CCC-1005) in excess of the provisions of such contract shall be considered as a marketing of quota peanuts. No peanuts shall be handled from any producer who does not present a marketing card and farm identification card at time of delivery.

(b) *Purchase records.* (1) Purchases of quota peanuts on which an MQ-94 is prepared. Each handler shall maintain records of the peanuts, the State and county code, and the farm number of the farm on which the peanuts were produced or the registration number of the seller if the seller is a handler and must indicate the quantity, type, date of purchase, and applicable MQ-94 serial number. The handler shall imprint forms MQ-94 and FVQ-95 with the farm identification card, the peanut buyers card, and the buying point card.

(2) Purchases of quota peanuts from producers on which MQ-94 is not prepared. The handler shall immediately transmit a record of such purchase to CCC. Such record shall show name and address of producer, State and county code, farm number, handler's name, address and registration number, buying point, any marketing quota penalty collected, quantity, and date of purchase.

(c) *Sales and disposal records.* Each handler shall maintain records of all sales and other disposals of peanuts. Such records shall show date of sale, quantity, type, to whom sold, whether sold as edible peanuts or for crushing,

and any other information required by this subpart.

(d) *Method of keeping records.* Handler records shall be maintained within their operation in such a manner that will enable representatives of the Secretary to readily reconcile the quantities, grades, and qualities of all such peanuts disposed of by a handler. Records concerning the acquisition and disposal of contract of additional peanuts must also be kept in such a manner that representatives of the Secretary can readily determine compliance with the regulations and contract provisions.

(e) *Retention of records.* All records shall be maintained for a period of three years following the end of the marketing year in which the peanuts were produced.

§ 1446.5 Contracts for additional peanuts for crushing and export.

(a) *Contracts between handlers and producers.* Handlers who have a U.S. address may contract with producers on form CCC-1005 to buy additional peanuts from the producers for crushing or export, or both. The type and quality of each lot of contract peanuts delivered under contract shall be determined by an inspector when such peanuts are delivered by a producer. All such contracts shall be completed and submitted to the county office for approval prior to June 15 of the year in which the crop is produced. Such contracts cannot be sold or traded: *Provided*, That if a handler is unable to perform under such contracts because of conditions beyond his control, including but not limited to insolvency, bankruptcy, death, or destruction of warehouse facilities, the handler and the producers may agree to the delivery of the peanuts to other handlers under the terms of the original contract, if specifically authorized by the Deputy Administrator, State and County Operations, ASCS. The county office shall summarize contracts and send such summary to the association through the State office. Contracts shall include at least the following provisions:

(1) Name and address of operator, State and county code, and farm serial number of the farm.

(2) Name, address of handler, and registration number.

(3) Amount of segregation 1 peanuts in pounds by type.

(4) Contract price shown as a percentage of quota peanut support rate.

(5) Requirement for disclosure by producer of any liens on peanuts on date of delivery.

(6) A provision that the producer shall not be liable for failure to deliver against such contract above the actual production of such type quality on the farm: *Provided*, that such physical loss of production resulted solely from an external source such as drought, fire, lightning, inherent explosion, windstorm, tornado, flood, or other acts of God.

(7) Signature of farm operator and producer if different from operator.

(8) Signature of handler or authorized agent.

(9) The following agreement by the handler:

I agree that I will either export or crush the peanuts delivered under this contract as provided in Part 1446, Subpart-General Regulations Governing 1979 and Subsequent Crops Peanuts Warehouse Storage Loan and Handler Operations, by August 31 following the calendar year in which the crop is grown and that, upon my failure to do so, I shall be subject to liquidated damages as specified in such regulations, on all such peanuts which have not been so crushed or exported. I further agree that if I contract with another Handler to market any such peanuts, I shall include as part of the contract the agreement contained herein, and upon my failure to do so, I shall be subject to liquidated damages, as specified in the regulations on all such peanuts.

(b) *Deliveries under optional provisions of the contract.* Contracts may also include provisions under which a specified quantity of segregation 1 peanuts in excess of the quantity specified in paragraph (a) of this section may be delivered under the contract: *Provided*, The quantity of segregation 1 peanuts specified in paragraph (a) has been delivered and the producer retains the right to market Segregation 1 peanuts as quota peanuts to the extent that the farm poundage quota has not been filled. Contracts may also provide for delivery of segregations 2 and 3 peanuts without regard to any quantity limits specified in this section.

(c) *Contracts between handlers.* Handlers may contract with other handlers to market additional contract peanuts. Such contracts must contain the agreement specified in paragraph (a)(9) of this section and an agreement that such agreement will be included in all subsequent contracts covering resale of such peanuts.

§ 1446.6 Commingling of quota and additional peanuts.

Quota and additional farmers stock peanuts of like type and segregation

may be commingled and exchanged on a dollar value basis to facilitate handling and marketing. The dollar value basis shall be determined on the basis of the quota support rate. The handler shall receive, store, and deliver all such peanuts in accordance with good commercial practices and instructions provided by CCC. For each lot of quota and/or additional peanuts stored commingled, the records of the handler shall show at all times the date and place received, name and address of the producer, the type, segregation, pounds, and dollar-value-in. The handler shall keep such other accounts and records and furnish such information and reports relating to the dollar value out and disposition of such peanuts as may be prescribed by the association or CCC.

§ 1446.7 Use of additional peanuts as domestic edible peanuts.

During harvest season, a handler shall have the right to purchase additional peanuts for domestic edible use at buying points owned or controlled by such handler at 100 percent of the quota loan value of such peanuts plus handling charges. Such purchase may be made only from the association and only on the date such peanuts were offered by producers to the association for loan. The handler shall advance to the producer, as an agent for the association, price support at the additional level and forward to the association a check payable to CCC for the peanuts at the quota support rate plus handling charges. The check and applicable MQ-94 will identify the peanuts as additional peanuts that may be used as domestic edible peanuts and must be postmarked not later than the third work day excluding Saturdays, Sundays, and Federal holidays following the day the peanuts were inspected. The association shall credit such receipts to the additional pool for such peanuts. Handlers may also purchase additional peanuts from the loan pool for domestic edible use after delivery by producers to the association, under terms and conditions announced by CCC. The minimum price for such purchases shall be not less than carrying charges plus (a) 105 percent of the quota loan value if purchased not later than December 31 of the marketing year, or (b) 107 percent of the quota loan value if purchased after December 31 of the marketing year.

§ 1446.8 Compliance by handlers of contract additional peanuts.

All contract additional peanuts acquired by a handler shall be disposed of by domestic crushing or export to an

eligible country. All handler's records shall be subject to a review by CCC or other representatives of the Secretary, to determine compliance with the provisions of this subpart. Failure to dispose of such peanuts by August 31 following the calendar year in which the crop was grown or such later date as may be authorized by the association shall constitute noncompliance with the provisions of this subpart. Refusal to make such handler's records available to authorized representatives of the Secretary or failure of such records submitted to establish such disposition shall constitute prima-facie evidence of noncompliance with this subpart. Reviews shall be made by the association in accordance with guidelines established by CCC and the association shall not take any administrative or any other actions concerning indicated program violations until directed to do so by the Director, Producer Associations Division, ASCS.

(a) *Quota peanuts.* A handler will be subject to a penalty for noncompliance if it is determined by CCC that he marketed from any crop, for domestic edible use, a larger quantity, or higher grades or quality of peanuts than could reasonably be produced from the quantity of peanuts having the grade, kernel content and quality of quota farmers stock peanuts purchased by the handler for domestic edible use during the applicable marketing year and of those purchased under § 1446.7, whether or not additional peanuts were acquired by the handler. In such case, the handler will be obligated to pay a penalty equal to 120 percent of the basic quota support rate on that quantity of farmers stock peanuts determined by CCC to be necessary to produce the excess quantity or grade or quality of peanuts sold.

(b) *Method of determining compliance*
(1) *Commingled storage.* Handlers may commingle quota loan, quota commercial, additional loan and contract additional peanuts. In such instance, quota loan and additional loan peanuts must be inspected as farmers stock peanuts and settled on a dollar value basis less adjustments for shrinkage except when such peanuts are purchased from the association for domestic edible and related use on an in-grade, in-weight basis. Contract additional peanuts must be inspected on a farmers stock basis and accounted for on a dollar value basis less a one time adjustment for shrinkage for each crop equal to 4.0 percent of the dollar value for Virginia type peanuts and 3.5 percent for all other types except that if the additional contract peanuts are graded

out and accounted for prior to February 1, the adjustment shall be 3.5 for Virginia type and 3.0 percent of the dollar value for all other peanuts.

(2) *Identity preserved storage.*

Contract additional peanuts stored identity preserved shall be inspected as farmers stock peanuts and settled on a dollar value basis. The handler shall receive, store, and otherwise handle such peanuts in accordance with good commercial practices.

§ 1446.9 Supervision and handling of additional contract peanuts.

The association shall supervise domestic handling of contract additional peanuts including storing, shelling, crushing, cleaning, weighing, and shipping.

(a) *Access to facilities.* The handler, by entering into contracts to receive contract additional peanuts, shall be deemed to have agreed that authorized representative(s) of CCC and the association:

(1) May enter and remain upon any of the premises when such peanuts are being received, shelled, cleaned, bagged, sealed, weighed, graded, stored, crushed, packaged, shipped, or otherwise handled.

(2) May inspect such peanuts and the oil, meal, and other products thereof, and

(3) May inspect the premises, facilities, operations, books, and records to the extent necessary to determine that such peanuts have been handled in accordance with these regulations.

(b) *Notifying the association.* Before moving or processing any peanuts, the handler (or cleaner, sheller, or processor under contract with the handler) shall notify the association of the time such operation will begin and the approximate period of time required to complete the operation. When a plant is not currently under supervision, the handler shall give at least five working working days advance notice to the association so that supervision can be arranged.

(c) *Processing.* The peanuts shall be shelled or otherwise milled, crushed, or shelled and crushed as a continuous operation separate from other peanuts. Shelled peanuts shall be identified with positive lot identity tags before being stored and moved for crushing, export or domestic use in peanut products to be exported. Except as authorized by the association, positive lot identity shall be maintained when peanuts are transported or stored in the following manner:

(1) *Transportation.* The peanuts shall be transported from the storage location

in a covered vehicle, such as a truck or railroad car. The vehicle shall be sealed unless the association determines that identity of the peanuts can be maintained without sealing.

(2) *Storage.* The peanuts shall be stored in separate building(s) or bin(s) which can be sealed or which the association determines will satisfactorily maintain lot identity.

(d) *Replacements.* The identical additional farmer stock peanuts contracted shall be handled in accordance with this section except that with prior notification and approval of the association, farmer stock quota peanuts of the same crop, type, quality, and area may be used to replace such additional peanuts. The identical additional milled peanuts shelled under supervision of the association shall be disposed of in accordance with this section except that prior notification and approval of the association, such peanuts may be used to replace in domestic use quota peanuts of the same crop, type, area, and screen size which have been exported. The quota peanuts exported, for which replacement is requested, must have been positive lot identified and otherwise handled as additional peanuts. Additional peanuts may be used in domestic edible and related uses with prior notification and approval of the association and upon presentation to the association of an irrevocable letter of credit in an amount not less than 120 percent of the quota support rate on any portion of the lot for which replacement has not been approved. Such letter of credit shall be issued in a form and by a bank acceptable to CCC. The handler shall deliver to the association satisfactory evidence that a like amount of quota peanuts of appropriate screen sizes have been exported in accordance with these regulations. Such evidence must be submitted no later than 30 days after August 31, the final date for exportation or such later date as may be approved by the association. If satisfactory evidence is not presented by such date, the association will draw against the letter of credit the full amount of the marketing quota penalty applicable to the quantity of peanuts on which an accounting was not made.

(e) *Expense charged to handlers.* All supervision costs shall be borne by handlers.

(f) *Domestic sale or transfer—(1) Farmers stock.* The handler must submit contracts covering any domestic sale, transfer, or other disposition of farmers stock contract additional peanuts to the association and obtain written approval prior to any physical movement of the

peanuts from the buying point. Approval of such contracts may be made before or after delivery by the producer.

Approval of any domestic sale, transfer, or other disposition may be made only if the person to whom the peanuts are sold, transferred, or disposed of agrees in writing to handle and crush or export as raw peanuts or peanut products in accordance with the terms and conditions of these regulations.

(2) *Milled peanuts.* The handler must submit contracts covering any domestic sale, transfer, or other disposition of milled contract additional peanuts to the association and obtain approval prior to any physical movement of the peanuts. Approval of any domestic sale, transfer, or other disposition may be made only if the person to whom the peanuts are sold, transferred, or disposed of agrees, in writing, to handle and crush or export the peanuts in accordance with the terms and conditions of these regulations.

(g) *Disposal of additional contract peanuts.* Contract additional peanuts may be disposed of by domestic crushing or by exporting to an eligible county as follows:

(1) All kernels may be crushed domestically, or

(2) All kernels may be exported for crushing, if fragmented, or

(3) All kernels that are graded to meet the edible export standards may be exported and the remaining kernels:

(i) Crushed domestically, or

(ii) Exported for crushing if peanuts are fragmented, or

(4) All of the peanuts may be exported as farmers stock peanuts, or

(5) Peanuts may be exported as peanut products if such peanuts meet edible export standards, or

(6) Peanuts may be exported as milled or inshell peanuts.

(h) *Disposal of meal contaminated by aflatoxin.* All meal produced from peanuts which are crushed domestically and found to be unsuitable for use as feed because of contamination by aflatoxin shall be disposed of for nonfeed purposes only. If the meal is exported, the export bill of lading shall reflect the analysis of the lot by inclusion thereon of the following statement, "This shipment consists of lots of meal which contain aflatoxin ranging from _____ to _____ PPB and averaging _____ PPB."

(i) *Final dates for scheduling supervision.* Additional contract peanuts shall be scheduled for supervision by the association during the normal marketing period but not later than July 31 following the calendar

year in which the crop is grown unless prior approval of a later date is authorized by the association.

(j) *Export provisions*—(1) *General*. Exports to Southern Rhodesia, North Korea, Vietnam, Cambodia, and Cuba are regulated by U.S. Department of Commerce regulations and require a validated export license. Additional information concerning the regulations may be obtained from the Bureau of International Commerce or from the field office of the Department of Commerce.

(2) *Export to a U.S. Government agency*. Except for the export of raw peanuts to the military exchange services for processing outside the United States, export of peanuts in any form by or to a United States government agency shall not be considered an export to an eligible country. However, sales to a foreign government which are financed with funds made available by a United States agency such as the Agency for International Development are not considered sales to a United States government agency: *Provided*, The peanuts were not purchased by the foreign buyer for transfer to a United States agency.

(3) *Exportation of contract additional peanuts*. All contract additional peanuts which are not crushed domestically and which are eligible for export shall be exported to an eligible country as peanuts or peanut products.

(4) *Reentry Transshipment and Liquidated Damages*—(i) *Reentry Transshipment*. Peanuts and peanut products exported shall not be reentered by anyone into the United States in any form or product and shall not be caused by the handler to be diverted or transshipped to other than an eligible country in any form or product, and if they are reentered, the handler shall be subject to liquidated damages as specified in subparagraph (4)(ii) of this paragraph.

(ii) *Liquidated Damages*. The handler, by entering into contracts to receive contract additional peanuts, shall be deemed to have agreed that CCC will incur serious and substantial damages to its program to support the price of quota peanuts if additional contract peanuts are exported and later are reentered into the United States or diverted or transshipped to other than an eligible country in any form or product; that the amount of such damages will be difficult, if not impossible, to ascertain exactly; and that the handler shall, with respect to any peanuts or peanut products reentered into the United States or

diverted or transshipped to other than an eligible country, pay to CCC, as liquidated damages and not as a penalty, ten cents (\$.10) per net pound for such peanuts or peanut products. It is agreed that such liquidated damages are a reasonable estimate of the probable actual damages which CCC would suffer because of such reentry, diversion, or transshipment.

(5) *Evidence of Export*. The handler shall furnish the association with the following documentary evidence of exportation of peanuts or peanut products not later than 30 days after August 31, the final date for exportation, or such later date as may be approved by the association:

(i) *Export by water*. A nonnegotiable copy of an onboard ocean bill of lading, signed, on behalf of the carrier, showing the date and place of loading onboard vessel, the weight of the peanuts, peanut meal, or products exported, the name of the vessel, the name and address of the exporter, and the country of destination. Peanut meal which is unsuitable for use as feed because of contamination by aflatoxin shall be identified on the bill of lading in accordance with this section.

(ii) *Export by rail or truck*. A copy of the bill of lading (showing the weight of the peanuts or peanut meal exported), supplemented by a copy of the Shipper's Export Declaration or other documentation acceptable to the association. Peanut meal which is unsuitable for feed use because of contamination by aflatoxin shall be identified on the bill of lading according to this section.

(iii) *Export by air*. A copy of the Airway Bill (showing weight consignee and shipper) and other acceptable documentation acceptable to the association.

(iv) *Certified statement*. A statement signed by the handler specifying the name and address of the consignee and the applicable Bureau license number if exportation has been made to one or more of the countries or areas for which a validated license is required under regulations issued by the Bureau of International Commerce, U.S. Department of Commerce.

(6) *Penalties*. Failure to dispose of contract additional peanuts acquired by a handler for domestic crushing or export by August 31 following the calendar year in which the crop was grown or such later date as may be authorized by the association shall constitute noncompliance with the provisions of this subpart. In such case, the handler will be obligated to pay a penalty equal to 120 percent of the basic

quota support rate on that quantity of the additional peanuts not crushed or exported.

Warehouse Storage Loans

§ 1446.10 Availability of warehouse storage loans.

(a) *Loans to associations*. CCC will make warehouse storage loans to the associations specified in subparagraph (b) which contract with CCC to arrange for the storing and handling of farmers stock peanuts, make price support advances to producers on such peanuts, and use such peanuts as collateral for loans to be obtained from CCC. Loans on quota peanuts shall be made on the basis of the quota support rate, and loans on additional peanuts shall be made on the basis of the additional support rate. The association shall establish an adequate system of records to identify each lot of peanuts delivered from producers as quota or additional peanuts and shall establish adequate records to identify whether such peanuts were pledged to CCC at the quota loan rate or additional loan rate. Such loans will mature on demand.

(b) *Associations and Areas*. Price support advances will be available through:

(1) GFA Peanut Association, Camilla, Georgia, in the Southeastern area consisting of the States of Alabama, Georgia, Mississippi, Florida, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers.

(2) The Southwestern-Peanut Growers Association, Gorman, Texas, in the Southwestern area consisting of the States of Arizona, Arkansas, California, Louisiana, New Mexico, Oklahoma, and Texas.

(3) The Peanut Growers Cooperative Marketing Association, Franklin, Virginia, in the Virginia-Carolina area consisting of the States of Missouri, North Carolina, Tennessee, Virginia, and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers.

(c) *Where available*. Price support advances will be available to eligible producers at warehouses which have entered into peanut receiving and warehouse contracts with the association. Such contracts will require the warehouses to inform producers that price support advances are available and to make advances to producers on eligible peanuts tendered for price support as provided in paragraph (g) of this section. The contracts will require warehousemen to examine the producer's marketing cards to determine price support eligibility and make

entries on the marketing card as required by Part 729 of this title and record each delivery as to quota or additional peanuts and date of delivery. If quota peanuts or contract additional peanuts are delivered, the balance of the quota or contract additional peanuts must be shown on the marketing card after each delivery. The names and locations of such warehouses may be obtained from the office of the appropriate association or from a State or county ASCS office. The associations shall pledge to CCC all peanuts upon which they have made price support advances as security for loans obtained pursuant to agreements with CCC.

(d) *Time.* Price support advances to eligible producers on peanuts of any crop will be available from the beginning of harvest through the following January 31 or such later date as may be established by the Executive Vice President, CCC. If the final date of availability falls on a nonworkday for the association, the applicable final date shall be the next workday.

(e) *Inspection.* The type and quality of each lot of farmers stock peanuts delivered to an association for a price support advance shall be determined by an inspector when such peanuts are received at a warehouse under contract with an association.

(f) *Producer agreement.* To obtain a price support advance, the producer shall, in writing, authorize the association to pledge peanuts delivered to the association to CCC as collateral for a warehouse storage loan and relinquish any right to redeem or obtain possession of such peanuts.

(g) *Advance to producer.* For each lot of peanuts received, the associations will make a price support advance to the producer in an amount equal to the support value of such peanuts, except that, in addition to marketing quota penalties and the deductions specified in § 1446.12, the association will deduct from such advances and pay over to the proper State authorities, any assessments or excise taxes imposed by State law, and the Southwestern Peanut Growers Association will, upon the prior agreement of the producer, deduct from such advance an amount approved by CCC, not to exceed 50 cents per net weight ton of peanuts upon which such advance was made, to be used in payment for its peanut activities outside the price support program.

(h) *Fraud by Producer.* The making of any fraudulent representation by a producer in the loan documents or in obtaining a loan or an advance shall render him subject to criminal prosecution under Federal law. The

producer shall be personally liable to CCC, aside from any additional liability under criminal or civil frauds statutes, for the amount of such advance and for all costs which CCC would not have incurred except for the producer's fraudulent representation, together with interest upon such amounts at the rate for fraudulent representation as shown in a separate notice in the Federal Register: *Provided*, That the producer shall be given credit for the proceeds received by CCC upon sale of the peanuts upon which such advance was made.

(i) *Ineligible Peanuts.* Any person who causes ineligible peanuts, as defined in § 1446.14, to enter the loan, shall pay to CCC, as liquidated damages, the amount by which the average quota or additional loan level for that type of peanuts exceeds the market price as determined by CCC and shall pay such amount to CCC promptly upon demand. The market price shall be based upon the estimated value for crushing stock.

§ 1446.11 Pooling and distribution of net gains.

The association shall establish separate pools by area, type, and segregation or quality of peanuts and maintain separate, complete and accurate records for quota peanuts under loan and for additional peanuts not under contract. Net gains on peanuts in each pool shall be distributed to each grower in proportion to the value of peanuts placed in the pool by the grower except any distribution of net gains on additional pools of any type to a producer shall be reduced to the extent of any loss incurred by CCC on quota peanuts of a different type placed under loan by the same producer, and the proceeds available to any producer from any pool shall be reduced by the amount of any losses to CCC on peanuts transferred from an additional loan pool to a quota loan pool under the provisions of this subpart.

(a) *Quota pool.* Net gains from peanuts in the quota pool consist of:

(1) The net gains over and above the loan indebtedness on quota peanuts and other costs or losses incurred by CCC on such peanuts placed in the pool by a producer, plus

(2) An amount from the net gains on additional peanuts sold into domestic food and related uses equal to the losses incurred on disposing of an equal quantity of quota peanuts of the same type and segregation in the same production area, considering sales of quota peanuts for export first and then as necessary, sales for crushing.

(b) *Additional pool.* Net gains for peanuts in the additional pool consist of:

(1) The net gains over and above the loan indebtedness on additional peanuts and other costs or losses incurred by CCC on such peanuts placed in the pool by a grower, less

(2) An amount of the net gains on the additional pool allocated to the quota pool to offset any loss on that pool attributed to additional peanuts being used in domestic edible use.

§ 1446.12 Producer indebtedness.

(a) *Facility and drying equipment loans.* If any installment or installments on any loan made by CCC on farm storage facilities or drying equipment are payable under the provisions of the note evidencing such loan and the amount due is recorded on the producer's marketing card, any amount due the producer under this subpart, after deduction of amounts due prior lienholders, shall be applied to such installment(s).

(b) *Producers listed on county debt record.* If the producer is indebted to CCC or to any other agency of the United States and such indebtedness is listed on the county debt record and recorded on the producer's marketing card, amounts due the producer under this subpart, after deduction of amounts due prior lienholders and on farm storage facilities or drying equipment, shall be applied to such indebtedness as provided in the Secretary's Setoff Regulations, Part 13 of this title.

§ 1446.13 Eligible producer.

(a) *Requirements.* An eligible producer is an individual, partnership, association, corporation, estate, trust, or other legal entity, and whenever applicable, a State, political subdivision of a State or any agency thereof, producing peanuts as a landowner, landlord, tenant, or sharecropper on a farm. No producer on a farm for which the farm operator fails timely to file a report of crop or land use acreages as required by Part 718 of this title shall be eligible for price support at the quota rate unless the late filed report was accepted by the county committee.

(b) *Estates and trusts.* A receiver of an insolvent debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of an estate or of a ward or of an incompetent person, and trustees of a trust estate shall be considered to represent the insolvent debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively, and the production of the receiver, executor, administrator, guardian or trustees shall be considered

to be the production of the person represented. Loan documents executed by any such person shall be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) *Eligibility of minors.* A minor who is otherwise an eligible producer shall be eligible for price support only if such minor meets one of the following requirements: (1) The right of majority has been conferred on such minor by court proceedings or by statute; (2) a guardian has been appointed to manage such minor's property and the applicable price support documents are signed by the guardian; or (3) a bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had such minor been an adult.

§ 1446.14 Eligible peanuts.

Eligible peanuts shall be farmers stock peanuts of the applicable crop which were produced in the United States by an eligible producer.

(a) *Quota support.* Peanuts eligible for quota support are peanuts which (1) are segregation 1 peanuts; and (2) contain not more than 10 percent moisture and which, if mechanically dried, contain at least 6 percent moisture; and (3) contain not more than 10 percent foreign material; (4) are free and clear of all liens and encumbrances, including landlord's lien, or if liens or encumbrances exist on the peanuts, acceptable waivers are obtained; and (5) the beneficial interest is in the producer who delivers them to the association and has always been in such producer or in such producer and a former producer whom such producer succeeded before the peanuts were harvested. To meet the requirements of succession to a former producer, the rights, responsibilities, and interest of the former producer with respect to the farm on which the peanuts were produced shall have been substantially assumed by the person claiming succession. Mere purchase of a crop prior to harvest, without acquisition of any additional interest in the farm on which the peanuts were produced, shall not constitute succession. Any producer in doubt as to whether such interest in the peanuts complies with the requirements of this section should, before applying for price support, make available to the county ASC committee all pertinent information which will permit a determination with respect to succession to be made by CCC; (6) are, if delivered to the association in bags in the Southwestern area, in new or thoroughly cleaned used bags which are

made of material other than mesh or net, weighing not less than 7½ ounces nor more than 10 ounces per square yard and containing no sisal fibers, are free from holes and are finished at the top with either the selvage edge of the material, binding, or a hem. Such bags shall be of uniform size with approximately 2 bushel capacity; (7) must not have been produced on land owned by the Federal Government if such land is occupied without a lease permit or other right of possession; (8) must have been produced on a farm on which the effective farm allotment has not been knowingly exceeded; and (9) must have been inspected as farmer stock peanuts and have an official grade determined by an inspector.

(b) *Additional support.* Peanuts eligible for additional support are peanuts which (1) contain not more than 10 percent moisture; and (2) contain not more than 10 percent foreign material, except that such peanuts may contain more foreign material if the handler agrees to purchase for domestic edible use as provided in the first sentence in § 1446.7 of these regulations; (3) segregation 2 or 3 peanuts which will be sold without storage for crushing or fragmentation for export, may contain more than 10 percent moisture and/or foreign material up to a maximum determined appropriate by the producer association based on the crushing market and other local conditions; (4) are free and clear of all liens and encumbrances, including landlord's lien, or if liens or encumbrances exist on the peanuts, acceptable waivers are obtained; and (5) the beneficial interest is in the producer who delivers them to the association and has always been in such producer or in such producer and a former producer whom such producer succeeded before the peanuts were harvested. To meet the requirements of succession to a former producer, the rights, responsibilities, and interest of the former producer with respect to the farm on which the peanuts were produced shall have been substantially assumed by the person claiming succession. Mere purchase of a crop prior to harvest, without acquisition of any additional interest in the farm on which the peanuts were produced, shall not constitute succession. Any producer in doubt as to whether such interest in the peanuts complies with the requirements of this section should, before applying for price support, make available to the county ASC committee all pertinent information which will permit a determination with respect to succession to be made by CCC; (6) are, if delivered to the association in bags in

the Southwestern area, in new or thoroughly cleaned used bags which are made of material other than mesh or net, weighing not less than 7½ ounces nor more than 10 ounces per square yard and containing no sisal fibers, are free from holes and are finished at the top with either the selvage edge of the material, binding, or a hem. Such bags shall be of uniform size with approximately 2 bushel capacity; (7) must not have been produced on land owned by the Federal Government if such land is occupied without a lease permit or other right of possession; (8) if produced on acreage in excess of the effective farm allotment, the penalty has been collected in accordance with Part 729 of this title; and (9) must have been inspected as farmer stock peanuts and have an official grade determined by an inspector.

§ 1446.15 Disposition and liquidated damages on segregation 3 peanuts.

(a) Any producer who has a lot of farmers stock peanuts classified by the inspector as segregation 3 peanuts shall (1) deliver the peanuts to the association for loan at the additional loan rate, (2) deliver such lot as contract additional peanuts under the provisions of § 1446.5, (3) sell as quota peanuts to a handler who is a signer of the peanut marketing agreement or (4) retain the lot for seed. If the producer does not dispose of or market such peanuts as provided above on the day of inspection, such producer shall be ineligible for continued quota price support for the rest of the marketing year on all peanuts at the close of business on the day of the inspection. If the producer elects to retain a lot for seed, he shall designate such peanuts as quota peanuts, have the net weight of such peanuts determined and deducted from the farm marketing card, and advise the inspector that the peanuts are being retained for seed. The producer shall be given a copy of the MQ-94 as a record showing the quantity and quality factors of the peanuts and must store such peanuts separate from other peanuts on the farm. The producer shall notify CCC when such peanuts are used and otherwise account for the disposition of such peanuts. Should it later be determined that such peanuts are unfit for seed use, the producer may, after receiving prior approval from the county office, sell such peanuts for crushing as quota peanuts without benefit of price support.

(b) *Liquidated damages.* The producer, by participating in the loan program, shall be deemed to have agreed that CCC will incur serious and substantial damages to its program to

support the price of peanuts if segregation 3 peanuts are disposed of other than in accordance with the provisions of paragraph (a) of this section; that the amount of such damage will be difficult, if not impossible, to ascertain exactly; and that the producer shall, with respect to any lot of peanuts ineligible for quota support which are placed under quota loan or any lot of peanuts which are placed under quota loan by a producer after he has disposed of any lot of segregation 3 peanuts in any manner other than in the manner prescribed in paragraph (a) of this section, pay to CCC as liquidated damages and not as a penalty, seven cents (\$.07) per net pound of such peanuts. It is agreed that such liquidated damages are a reasonable estimate of the probable actual damages which CCC would suffer because of such action by the producer. The provisions of § 1446.11 relating to the producer's liability (Aside from liability under criminal and civil frauds statutes) shall not be applicable to such peanuts.

§ 1446.16 Producer transfers of additional loan stocks to quota pools.

Producers may transfer Segregation 2 and 3 additional loan stocks to quota loan after the producer has completed marketing and returned his marketing card to the county office not to exceed the smaller of the farm poundage quota minus the production of segregation 1 peanuts on the farm, or the undermarketing of quota peanuts shown on the farm marketing card: *Provided:* That the proceeds available to such producer from peanuts in any other pool shall be reduced by the amount of any losses to CCC on the peanuts so transferred. The support values for any segregation 2 peanuts so transferred shall be the support value for quota peanuts minus the damage discount published in the quota support schedule and the support value for segregation 3 peanuts shall be the support value for quota peanuts minus the applicable discount published in the quota support schedule. Producers eligible to transfer additional loan peanuts to the quota loan in accordance with this section may apply for such transfers with the county office. The county office shall determine the quantity of undermarketing of quota peanuts and the quantity of additional peanuts which are eligible for transfer. The producer may indicate to the county office the net weight and applicable Form MQ-94 numbers for the peanuts to be transferred. Such pounds shall be considered as quota peanuts marketed, the applicable MQ-94's recomputed at

the quota loan level, and the producer advanced the difference between the additional and quota support.

Note.—This regulation has been determined to be not significant under the USDA criteria implementing Executive Order 12044 and only contains necessary operating decisions and requirements to implement the national average peanut price support rates announced on February 15, 1979. An approved Final Impact Statement is available from Dalton J. Ustynik (ASCS) 202 447-8761.

Signed at Washington, D.C., on June 6, 1979.

Ray Fitzgerald,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-18284 Filed 6-12-79; 8:45 am]
BILLING CODE 3410-05-M

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; Docket No. R-0212]

Electronic Fund Transfers; Disclosure of Consumers' Liability for Unauthorized Transfers

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: Section 909 of the Electronic Fund Transfer Act, which relates to consumers' liability for unauthorized transfers, became effective on February 8, 1979. The Board is adopting an amendment to Regulation E, which implements the EFT Act. The amendment requires financial institutions to give certain disclosures before imposing any liability for unauthorized use of an access device. The amendment generally corresponds to Proposal B, one of two proposals that was published for comment on March 28, 1979 (44 FR 18514). Unlike Proposal B, however, the amendment does not set a deadline for making disclosures. Rather, it permits an institution to make the disclosures if and when the institution chooses to do so. Until disclosures are made, however, a consumer cannot be held liable for unauthorized use of the access device.

This amendment becomes effective August 1, 1979. Unauthorized transfers initiated between February 8 and July 31, 1979, are governed by the statutory provisions and by the regulations adopted by the Board in March (44 FR 18468). Since, under those provisions, liability disclosures were required only in the case of unsolicited access devices, consumers could be held liable for transfers initiated during this period

even if liability disclosures were not made before the transfer occurred.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Regarding the regulation: Dolores S. Smith, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2412). Regarding the economic impact analysis: Frederick J. Schroeder, Economist, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2584).

SUPPLEMENTARY INFORMATION: (1) On March 28, 1979, the Board published final regulations implementing sections 909 and 911 of the Electronic Fund Transfer Act, the two sections that became effective on February 8, 1979. Under those regulations, only consumers who receive an unsolicited access device for making electronic fund transfers need be given notice of their potential liability for unauthorized transfers. The vast majority of users of EFT devices, however, might not learn of their liability until the remaining provisions of the Act and regulation go into effect in May 1980.

The Board believes it is important for all consumers to be informed about the rules that govern liability for unauthorized transfers. Accordingly, the Board published two alternative proposals regarding disclosure of liability (44 FR 18514, March 28, 1979). The proposals, labelled Proposals A and B, would have required financial institutions that hold consumers liable for unauthorized use to disclose no later than August 1, 1979: the consumer's liability for unauthorized transfers, the address and telephone number to be used for reporting the loss or theft of an access device, and the financial institution's business days. For access devices issued after August 1, disclosures would have been required before the first electronic fund transfer was initiated. Proposal B would have made delivery of the three disclosures a precondition to the institution's imposing liability on the consumer. Under either proposal, an institution that imposed no liability on consumers would have been exempt from making the disclosures.

Both proposals would have required disclosures to be made by August 1, 1979, for accounts that can be accessed by an EFT device. Many commenters did not understand this. They thought that under Proposal B disclosures could be made at any time before May 1980, so

long as the consumer was not held liable until the disclosures were made.

The Board received 55 comments. Twenty-five supported Proposal B, and a number of commenters endorsed both proposals. Twenty-one objected to the Board's adopting any disclosure requirement; of this number, 8 preferred Proposal B provided the Board gave institutions the right to decide when to make disclosures and to whom.

The commenters who supported Proposal B (or a modified version of it) believe it would give financial institutions greater flexibility to decide for themselves whether and when to make the liability disclosures. They note that under Proposal B consumers would be protected whether or not an institution chose to make the disclosures. They also believe that consumers must be told the rules for limiting their liability if the Act's provisions limiting liability are to have any meaningful effect.

Commenters who oppose a disclosure requirement say that the proposed disclosures would mean added costs, since other disclosures still have to be given in May 1980. Having to make disclosures now may require a reallocation of resources, and some also feel that they need more time to resolve apparent conflicts between Federal and State EFT laws.

Sixteen commenters questioned the Board's authority to require disclosures and to make their delivery a precondition to an institution's being able to impose liability on consumers. They believe that Congress, in making the liability limitations effective in February 1979, consciously decided to postpone disclosure of these provisions until May 1980 (except in the case of access devices issued on an unsolicited basis). Similarly, they believe that Congress did not intend to precondition liability on disclosures until the general disclosure requirements go into effect in May 1980.

Some argued that, as a practical matter, disclosure is not necessary to protect consumers. This opinion is based on the fact that consumers who previously had potentially greater liability than the Act now allows will automatically have that liability reduced to conform to the Act's limits. This reduction of potential liability will take place even if consumers are not personally notified of their more limited liability. In addition, these commenters noted, consumers who previously had less liability than the Act allows will not be affected, because the Act does not

override agreements or State laws that impose lesser liability.

These arguments fail to address, however, the need for consumers to know that liability standards require prompt reporting of the loss or theft of an access device to insure minimum liability. Many consumers may not know, for example, that their potential liability will increase from \$50 to \$500 if they fail to report the loss or theft of an access device within two business days of learning of the loss or theft. Similarly, they may not know that they must report an unauthorized transfer that appears on a periodic statement within 60 days, in order to avoid unlimited liability for subsequent transfers. Without knowledge of these rules, consumers' legal right to limit their liability may be meaningless.

In the Board's judgment, based on the comments and its own analysis, disclosure of consumers' liability is necessary to carry out the purposes of § 909 of the Act, which is now in effect. The primary purpose of the EFT Act is to provide protection to consumers who use EFT services. The Board believes consumers will be protected only if they are advised of the rules that govern their liability for unauthorized transfers.

Accordingly, the Board is adopting an amendment to § 205.5(a) of Regulation E. The amendment adds a third condition to the general rule regarding consumer liability for unauthorized transfers, by requiring the issuer of an access device to disclose: the consumer's liability for unauthorized transfers, the telephone number and address for reporting a lost or stolen access device, and the institution's business days. Financial institutions must make these disclosures before they can hold consumers liable. for the unauthorized use of an access device. Institutions are not required to make new disclosures to comply with § 205.5(a) as amended if they have already told customers of their potential liability for unauthorized use under State or Federal law or an agreement with the institution.

This amendment will become effective on August 1, 1979, and applies to any transfer initiated on or after that date. It should be noted that the Board has not set a deadline for making disclosures. The amendment permits an institution to make the liability disclosures if and when the institution chooses to do so. Until disclosures are made, however, a consumer cannot be held liable for unauthorized use of the access device.

Financial institutions may elect to

send disclosures to some accounts and not others. For example, they may send disclosures to active accounts accessible by an EFT device, and not send disclosures (absorbing any losses) for inactive accounts. Similarly, an institution may decide to send disclosures to customers with an EFT card usable at cash dispensing machines, but not to customers whose sole access device is a code used in a telephone bill-paying service.

Unauthorized transfers initiated between February 8 and July 31, 1979, remain subject to the statutory and regulatory disclosure requirements now in effect. Since these requirements mandate disclosures only in connection with unsolicited access devices, a consumer could be held liable for transfers initiated during this period even if disclosures had not been given.

The amendment contains an exception regarding disclosure of an institution's business days (item 3 of the required disclosures). The business day disclosure is intended to let consumers know what days will count toward determining whether the consumer has notified the institution "within 2 business days" of learning of the loss or theft of an access device. After 2 business days, the consumer's potential liability increases from \$50 to \$500 under the Federal EFT Act. Wisconsin institutions requested an exception to the business-day requirement on the grounds that under Wisconsin law, consumers can only be held liable for up to \$50, whether or not they report a loss within 2 business days. They believe that institutions which have already disclosed the first two items to consumers should not have to make new disclosures because of a remaining undisclosed item that is largely irrelevant.

The exception in § 205.5(a)(3)(iii) will be available in instances where a consumer's liability, under applicable State law or an agreement with the institution, cannot exceed \$50 and, thus, is not contingent on notification within a specified number of business days.

(2) *Economic impact analysis.* Section 904(a)(2) of the Act requires the Board to prepare an analysis of the economic impact of regulations issued by the Board to implement the Act.¹ The

¹ The analysis must consider the costs and benefits of the proposed regulation to suppliers and users of EFT services, the effects of the proposed regulation on competition in the provision of electronic fund transfer services among large and small financial institutions, and the effects of the proposed regulation on the availability of EFT services to different classes of consumers.

Footnotes continued on next page

following economic analysis accompanies amended § 205.5(a) of the regulation, which implements in part § 909 of the Act.

The amendment adopted by the board makes disclosures before May 1980 optional but provides that a financial institution can hold a consumer liable for unauthorized transfers from the consumer's account only after disclosures have been made. The amendment shifts to the institution all liability for unauthorized transfers after July 31, 1979, unless disclosures are made. Institutions thus face potentially large losses associated with lost or stolen access devices or unauthorized transactions not reported by consumers.

Institutions may regard this increased liability exposure as an incentive to make disclosures, which would induce consumers to handle access devices more carefully and to scrutinize periodic statements for unauthorized transfers. Making disclosures for all existing accounts—or, alternatively, for all active accounts—would provide more consumers with information and give them the incentive for quickly reporting loss or theft of a card or unauthorized transfers from an account. Both system-wide and average individual losses would be diminished. Interim liability disclosures would also provide consumers with information that improves their ability to decide whether to use EFT services. Another potential benefit to institutions is greater consumer acceptance of EFT stemming from increased certainty about the liability rules applicable to unauthorized transfers.

Against these potential benefits financial institutions would have to weigh costs that would be incurred for disclosure statement drafting, legal advice, printing and distribution. Costs associated with the disclosure program would be passed on to consumers to some degree. Commenters offered no empirical estimates of expected per-account costs associated with disclosure programs, although several commenters stated that they expected costs to exceed all possible benefits. The amendment would permit institutions to choose optimal disclosure programs after weighing the expected costs and benefits associated with making the disclosures to all or some of their account holders. A more efficient allocation of resources would result with no loss of consumer protection

relative to the liability provisions established by the Act.

It is not apparent whether small financial institutions or low-income consumers are likely to be placed at significant cost or other disadvantage. The amendment will, however, allow institutions flexibility to adapt to the ultimate disclosure requirements mandated by the Act for May 1980, so that small institutions should be better able (than under a mandatory disclosure requirement) to schedule the relatively larger fixed-cost expenditures associated with their disclosure programs.

(3) Pursuant to the authority granted in Pub. L. 95-630 (to be codified in 15 U.S.C. 1693b), the Board revises 12 CFR 205.5(a) as follows:

§ 205.5 Liability of consumer for unauthorized transfers.

(a) *General rule.* A consumer is liable, within the limitations described in paragraph (b) of this section, for unauthorized electronic fund transfers involving the consumer's account only if:

(1) The access device used for the unauthorized transfers is an accepted access device;

(2) The financial institution has provided a means (such as by signature, photograph, fingerprint, or electronic or mechanical confirmation) to identify the consumer to whom the access device was issued; and

(3) The financial institution has provided the following information, in writing, to the consumer:

(i) The consumer's liability under § 205.5, or under other applicable law or agreement, for unauthorized electronic fund transfers and, at the financial institution's option, notice of the advisability of prompt reporting of any loss, theft, or unauthorized transfers.

(ii) The telephone number and address of the person or office to be notified in the event the consumer believes that an unauthorized electronic fund transfer has been or may be made.

(iii) The financial institution's business days, as determined under § 205.2(d), unless applicable State law or an agreement between the consumer and the financial institution sets a liability limit not greater than \$50.

* * * * *

By order of the Board of Governors, June 7, 1979.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 79-16453 Filed 6-12-79; 8:45 am]

BILLING CODE 6210-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 15, 17 and 18

Statement of Policy on Aggregation of Accounts and Adoption of Related Reporting Rules

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (Commission) is issuing a statement of policy regarding the aggregation of positions held in discretionary accounts or accounts which are part of a customer trading program for purposes of speculative position limits, and is adopting amendments to its regulations concerning the reporting of positions held in such accounts. These amendments leave unchanged the general requirement that for determining reporting status all positions in accounts which a trader holds, has a financial interest in, or controls must be combined. Moreover, positions in accounts trading pursuant to an expressed or implied agreement or understanding must also continue to be combined.

With respect to reports filed by futures commission merchants, the amendments require that for determining reporting status all positions held in discretionary accounts and accounts traded pursuant to customer trading programs of a futures commission merchant or its officers, partners, or employees, must be combined with all other positions in accounts which the futures commission merchant holds, has a financial interest in, or controls *unless*, in general, (1) a person other than the futures commission merchant directs trading in the accounts, and (2) trading decisions in the accounts are determined independently from trading decisions in other accounts which the futures commission merchant holds, has a financial interest in, or controls.

The amended rules also set forth the conditions under which positions in accounts of commodity pools and certain partnership accounts are required to be combined for purposes of determining reporting status.

The Commission's statement of policy states the Commission's views regarding the aggregation of certain accounts for purposes of compliance with speculative limit requirements. The policy sets forth indicia the Commission will consider to determine whether the limits have been

Footnotes continued from last page particularly low-income consumers. The analysis presented here is to be read in conjunction with the economic impact analysis that accompanied the Board's Regulation E at 44 FR 18474, March 28, 1979, and 44 FR . . . May 2, 1979.

exceeded and appropriate enforcement proceedings should be instituted by the Commission. The statement of policy generally parallels the Commission's rules for determining reporting status.

EFFECTIVE DATE: July 13, 1979.

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, Commodity Futures Trading Commission, Office of Chief Economist, 2033 K Street N.W., Washington, D.C. 20581, (202) 254-7446.

SUPPLEMENTARY INFORMATION: On February 25, 1977, the Commission published for public comment in the Federal Register, 42 FR 11150, a proposed policy different from that implemented by the Commission's predecessor, the Commodity Exchange Authority, concerning aggregation of accounts of traders for reporting purposes and determining compliance with speculative limits. In addition, the Commission sought comment on the need for uniform Commission and exchange rules concerning the aggregation of accounts to determine compliance with federal and/or exchange-imposed speculative limits. New reporting requirements were also proposed which would allow the Commission to implement its proposed aggregation policy.

Background: One of the primary objectives of the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.* (1976), as amended by the Futures Trading Act of 1978, Pub. L. 95-405, 92 Stat. 865, is to maintain orderly and competitive futures markets. Section 4a(1) of the Act, 7 U.S.C. § 6a(1) (1976), specifically provides that:

"Excessive speculation in any commodity under contract of sale of such commodity for future delivery made on or subject to the rules of contract markets causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity."

Pursuant to this section the Commission is authorized to establish limits on the amount of trading which may be done or positions which may be held by any person. Section 4a(1) of the Act further provides that in determining whether

"... any person has exceeded such limits, the positions held and trading done by any persons directly or indirectly controlled by such person shall be included with the positions held and trading done by such person; and further, such limits ... shall apply to positions held by, and trading done by, two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions

were held by, or the trading were done by, a single person."¹

Prior to the enactment of the Commodity Futures Trading Commission Act of 1974, Pub. L. 93-463, 88 Stat. 1389 (October 23, 1974), Section 4a(1) had been the subject of interpretative statements issued by the Administrator of the Commodity Exchange Authority. One interpretative statement, Administrative Determination 229 (October 14, 1971) (A.D. 229), concerned "customer trading programs" of a futures commission merchant ("FCM") and stated that these programs have the following elements:

They normally require the customer to sign an agreement not obtained from other customers and to make a minimum deposit in excess of that required of other customers. Those in the program are given specific advice or recommendations not made available to other customers of the firm. Although participants are not required to follow specific recommendations, the programs are designed to provide best results when such recommendations are followed.

A.D. 229 concluded with respect to these trading programs that:

All trades and positions of all customer accounts included in a trading program must be combined for reporting and speculative purposes. Any officer, partner, or employee of a futures commission merchant who operates a customer trading program is acting on behalf of the futures commission merchant. ...

Thus, under A.D. 229, the FCM was deemed to control the trading of customer accounts in the trading program and was required to file large trader reports under Part 18 of the regulations under the Act if the positions in the accounts exceeded the reporting limits.² A related determination (A.D. 232), April 20, 1972, was also made by the Administrator concerning uniform application of A.D. 229 to commodities for which exchanges had established their own speculative limits. A.D. 232 stated:

... that each exchange which has speculative limits in a regulated commodity notify members that the Commodity Exchange Authority interpretation of the application of speculative limits to customer trading programs applies equally to exchange limits.

¹The Commission has recently amended its rules to eliminate daily trading limits on speculative trading for all commodities where such limits were in effect. See 44 FR 7124, *et seq.* (February 6, 1979). The Commission has retained limits on the positions which may be held for speculative purposes on all these commodities. Those commodities are grains (defined to include oats, barley and flaxseed), cotton, rye, soybeans, eggs, potatoes, corn and wheat. 17 CFR Part 150, 44 FR 7127-7128.

²For purposes of Part 18, a trader is any person, including an FCM, who, for his own account or for an account he controls, makes or has made transactions in commodity futures. 17 CFR 15.00(e).

The Commission has received petitions and inquiries from FCM's and others requesting that the Commission revise the prior interpretations made by the Administrator of the Commodity Exchange Authority. Due to the general importance of these issues, the Commission sought comment from interested persons. See 40 FR 44864 (September 30, 1975). Subsequently, questions concerning aggregation were discussed and reported on by two advisory committees established by the Commission: The Advisory Committee on the Economic Role of Contract Markets, chaired by Commissioner Seevers,³ and the Advisory Committee on Commodity Futures Trading Professionals, chaired by Commissioner Martin.⁴

The Advisory Committees generally found that customer trading programs, commodity pools and guided account programs may perform a useful function in the market. The Advisory Committee on Commodity Futures Trading Professionals specifically noted that "[t]rading programs and commodity pools are evidently becoming increasingly attractive to the trading public and may serve a valuable economic function in bringing speculative funds into the market."⁵

The Advisory Committee on the Economic Role of Contract Markets found that customer trading programs provided less stability than most standard types of speculative capital in the market.⁶ The placing of large block orders from trading programs, especially if trading is based on "technical factors," may produce "technical runaways" in the market.⁷ It was reported that markets have been "buffeted for short periods by these trend-trading blocks."⁸

Despite noting potential market problems accompanying large market orders, neither committee recommended further restrictions on trading by customer trading programs. Both committees did recommend further study and review of the existing aggregation policy, especially as it required FCM's to aggregate all trading programs operated by its personnel and "house accounts" of the FCM for

³The text of this Committee Report which concerned aggregation appears at CCH Comm. Fut. L. Rep. ¶20,187 at 21,077-21,078 (July 19, 1976) [Transfer Binder 1975-1977].

⁴The text of this Committee Report which concerned aggregation appears at CCH Comm. Fut. L. Rep. ¶20,187 at 21,096 [Transfer Binder 1975-1977], Report Letter No. 29, Part II at 51-52 (August 20, 1976) (Report letter No. 29).

⁵*Id.*

⁶CCH Comm. Fut. L. Rep. ¶20,187 at 21,078.

⁷*Id.*

⁸*Id.*

purposes of determining compliance with reporting and speculative limit requirements. The Advisory Committee on Commodity Futures Trading Professionals suggested that the Commission's aggregation policy with regard to programs affiliated with the FCM "should not emphasize principal-agent or employee relationships . . ." but should place the burden on the FCM to demonstrate independence in "program design, internal procedures and surveillance."⁹

The Commission believes the aggregation policy it is now adopting is in accordance with the general recommendations of these committees. The Commission recognizes the great variety of commodity trading programs available for trader participation. If such accounts and programs are traded independently and for different purposes, such trading can be beneficial to the markets by adding liquidity to the markets and aiding in the price-discovery process. Further, the Commission believes that the aggregation policy of the CEA did not adequately reflect the efforts made by FCM's, as well as others, to establish internal management procedures designed to assure independence by the person who controls trading in a discretionary account or a customer trading program. However, the Commission also recognizes that purportedly different programs which in fact are similar in design and purpose and are under common control may be initiated in an attempt to circumvent speculative limit and reporting requirements.

Overview of Aggregation Policy. The Commission received six comments in response to its February 25, 1977 proposed policy statement, one of which fully endorsed the policy and did not recommend any changes. Several of the commentators raised questions or made suggestions that have persuaded the Commission that some changes to the proposed policy statement were warranted.

The policy of the Commission's predecessor, and that proposed by the Commission, presumed that an FCM controlled all accounts of customers which were part of a customer trading program affiliated with the FCM, or its officers, partners, or employees. The Commission's proposed policy would have required an FCM to aggregate positions in all such customer trading program accounts unless it could make a sufficient showing in advance that control of trading was vested in a person other than the FCM. The

Advisory Committees, and for that matter three of the four commentators who stated their opinion on the subject, agreed that the burden should be on the FCM to establish that the FCM does not control an affiliated customer trading program.

The Commission agrees that the FCM or other trader bears the responsibility to comply fully with applicable legal requirements. However, the Commission, after further consideration, has determined that an initial showing by the FCM prior to commencement of trading in customer trading programs is an inefficient method to establish whether the FCM in fact controls trading in an account. In all cases, control is a matter of fact, the existence of which may be fairly inferred from surrounding circumstances. Thus, the FCM's initial affirmation, even though accurate when made, would not be dispositive of compliance with either speculative limit or reporting requirements if, in fact, there develops a consistent pattern of trading between accounts in supposedly different programs carried by the FCM and/or supposedly controlled by different employees of the FCM. Indeed, at the time the Commission published its proposal it noted that, despite the initial showing by the FCM, trading in the accounts would be subject to periodic review. In this connection, the administrative cost to the Commission to determine in each case, whether a sufficient showing has been made by the FCM prior to trading cannot be justified when, in any case, the Commission must continually monitor the programs to determine if coordinated patterns of trading are occurring.

In view of these considerations the Commission has determined to amend its reporting regulations to provide that for purposes of determining reporting status an FCM will be assumed to control all customer discretionary accounts and accounts which are part of a customer trading program of the FCM, or its officers, partners, or employees, unless specified conditions indicative of the absence of control exist. If these conditions exist with respect to a particular account, the FCM need not aggregate positions in such account for purposes of determining reporting status. In such a case, of course, the positions held in the account must be combined with those of the officer, partner or employee of the FCM who does control the account in determining the reporting status of such officer, partner or employee.¹⁰

¹⁰ The Commission's authority to require futures commission merchants and floor brokers, to report transactions and positions of such persons, and the

Further, the Commission's statement of policy on aggregation included in this release makes clear that the Commission will employ similar criteria in determining the FCM's compliance with speculative position limits insofar as those limits apply to controlled positions. If, after investigation or otherwise, the Commission has reason to believe that the FCM or any other trader has failed to aggregate positions in customer accounts properly for determining reporting status, or has violated speculative limits set in Part 150 of the regulations based on a failure to aggregate accounts properly or otherwise, the Commission may institute appropriate enforcement proceedings.

As adopted, the Commission's statement of policy on aggregation with respect to controlled accounts does no more than restate Section 4a(1) of the Act, which expressly provides that any person who directly or indirectly controls the positions held or trading done by any other person, must include the positions held or trading done by such other person in determining whether that person has exceeded the speculative limits set by the Commission. The language in Section 4a(1) regarding controlled positions was enacted in 1968, Pub. L. 90-258, § 2, 82 Stat. 28 (1968). The Senate Report accompanying the 1968 amendment states:

"All of the changes made by this section incorporate longstanding administrative interpretations reflected in orders of the [Commodity Exchange] Commission."¹¹

Indeed, the Commodity Exchange Commission's order setting speculative limits issued in 1938, had placed limits on the positions which "any person may hold or control."¹²

Applicability of Speculative Limits to FCM's. One commentator on the Commission's February, 1977 proposal suggested that, while an FCM who controls several customer accounts

transactions and positions of their customers, is set forth in Section 43 of the Act, 7 U.S.C. § 6g (1976). Further, Section 4i of the Act, 7 U.S.C. § 6i (1976), in pertinent part provides: "It shall be unlawful for any person to make any contract for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market unless such person shall report or cause to be reported to the properly designated officer in accordance with the rules and regulations of the Commission . . . whenever such person shall directly or indirectly have or obtain a long or short position in any commodity or in any future of such commodity, equal to or in excess of such amount as shall be fixed from time to time by the Commission."

¹¹ Senate Report No. 947, 90th Cong., 2d Sess. 5 (1968).

¹² *In the Matter of Limits on Positions and Daily Trading in Wheat, Corn, Oats, Barley, Rye, and Flaxseed, for Future Delivery*, C.E.A. Docket No. 3 (December 22, 1938).

⁹ Report Letter No. 29, *supra*, at 51-52.

should be subject to the Act's speculative limit provisions, Section 4a(4) of the Act precludes the use of presumptions of control applied to an FCM. Although an FCM need not make a showing to the Commission prior to trading under the policy and regulations herein adopted, the Commission again wishes to express its views on the applicability of Section 4a(4).

In pertinent part, Section 4a(4) of the Act provides that the speculative limit provisions of Section 4a

"... shall apply to a person that is registered as a futures commission merchant or floor broker... only to the extent that transactions made by such person are made on behalf of or for the account or benefit of such person."

As indicated above, as originally enacted, Section 4a did not expressly refer to trading in controlled accounts. However, trading effected either "directly or indirectly" was subject to speculative limits, and served as the basis for the Commodity Exchange Commission's interpretations regarding controlled accounts. Thus, the enactment of Section 4a(4) can only be understood to clarify that the broad, remedial provisions of Section 4a were not meant to apply to transactions effected for customers by an FCM or floor brokers, acting merely in that capacity as traditionally viewed. Considering the rationale for the enactment of Section 4a, Congress could hardly have intended to grant FCM's and floor brokers an exemption from any speculative limits established by the Commodity Exchange Commission if they traded "directly or indirectly," through controlled or otherwise managed accounts.

Thus, the Commission and its predecessor have consistently construed Section 4a(4) to apply only to situations in which the FCM or floor broker was handling customer accounts and exercised no discretion or control, either direct or indirect. See 42 FR 11150-51 (February 25, 1977).

Trading programs operated by non FCM's. Several persons who are not FCM's but who operate customer trading programs have inquired concerning the effect of the aggregation policy on their activities. The Commission's February 1977 release focused primarily on programs operated by FCM's. However, the Commission wishes to emphasize that Section 4a(1) of the Act and Part 150 of the Commission's regulations, expressly apply to any person, and thus cover an associated person of an FCM, a commodity pool operator ("CPO"),

commodity trading advisor ("CTA"), or any other trader who directly or indirectly controls futures positions. Similarly, these persons are subject to the large trader reporting requirements of the Commission's regulations, 17 CFR Part 18.

All traders who operate customer trading programs share the ability, through control of large trading blocks, to influence the market. Accordingly, a non-FCM who has an affiliated customer trading program is required to aggregate positions in accounts of such program with all other positions in accounts which the non-FCM holds, has a financial interest in, or controls, for purposes of determining reporting status and for purposes of compliance with speculative position limits. These requirements are discussed more fully below.

Definitions. In its February 25, 1977 release the Commission used and requested comments on definitions of terms referring to specific types of trading programs to which its aggregation policy would apply. No specific comments concerning these definitions were received. Upon review of other general comments which it received, the Commission has adopted certain of the definitions in a modified form in Part 15 of its regulations. The definitions will also apply to terms used in its policy statement on aggregation.

Rule 15.00(f) defines the term "customer trading program" to mean any system of trading offered, sponsored, promoted, managed or in any other way supported by, or affiliated with, an FCM, a commodity trading advisor, a commodity pool operator, or other trader, or any of its officers, partners or employees, and which by agreement, recommendations, advice, or otherwise directly or indirectly controls trading done and positions held by any other person. The term includes but is not limited to, arrangements where a program participant enters into an expressed or implied agreement not obtained from other customers and makes a minimum deposit in excess of that required of other customers for the purpose of receiving specific advice or recommendations which are not made available to other customers. The term includes any program which is of the character of, or is commonly known to the trade as, a managed account, guided account, discretionary account, commodity pool or partnership account.

The Commission has retained that part of its definition regarding programs designed to provide its participants with specific advice or recommendations not given to other customers. However, the

Commission has modified the definition to make clear that specific advice or recommendations given to a particular customer without more is not a customer trading program.

Rule 15.00(g) defines the term "guided account program" to mean any customer trading program which limits trading to the purchase or sale of a particular contract for future delivery of a commodity that is advised or recommended to the participant in the program.

As adopted the definition makes clear that the term "guided account program" does not include market letters or programs which give specific advice or recommendations regarding trading, but do not limit the trading activities to the advice or recommendations generated. An example of a guided account program is where the person controlling the account advises the customer to buy "May wheat." The customer may either agree to the trade or reject the trade before it is made.

One commentator suggested that if a participant in a customer trading program is given the option to accept or reject a suggested trade, the participant's account is not being "controlled" and should not be aggregated with other customer trading program accounts. The Commission is not persuaded that control should be viewed so narrowly for this purpose. Even though a customer may reject a specific trade in a guided account program, the only trades which can in fact be made for these accounts are those generated by the program. Secondly, customer trading programs, such as guided account programs, are designed and represented to customers to give best results by complete or general participation in the trades generated by the program. Thus, the incentive to join the program inhibits at the outset the independent judgment the customer might otherwise exercise. Moreover, the Commission understands that, in most cases, customers in a guided account program are contacted prior to the execution of an order, informed that the program expects a trend to develop, and that the customer's account will be traded in accordance with the program trend analysis unless the customer contacts the program and rejects the trade. Finally, although a guided account program may represent many individual customer accounts, orders placed may be block orders. The coordinated trading of these individual accounts at the direction of a single trader based on technical factors could have just as significant an impact in the market as

where the trader had complete discretionary authority over the accounts.

Rule 15.00(h) defines the term "discretionary account" to mean a commodity futures trading account for which buying and/or selling orders can be placed or originated, or for which transactions can be effected, under a general authorization and without the prior specific consent of the customer, whether the general authorization for such orders or transactions is pursuant to a written agreement, power of attorney, or otherwise.

Rule 15.00(i) defines the term "managed account program" to mean a customer trading program which includes two or more discretionary accounts traded pursuant to a common plan, advice, or recommendations. The Commission did not include a definition of this term in its February, 1977 release. Upon further consideration the Commission has determined that it was advisable to add this definition in order to emphasize that a group of discretionary accounts traded pursuant to a common plan, advice or recommendations are required to be aggregated for reporting purposes and for purposes of speculative limits.

If several discretionary accounts are part of a managed account program, all positions that are in the accounts must be aggregated by the trader or traders controlling trading in the program. For example, if several associated persons of an FCM individually manage one or more discretionary accounts, and all such accounts are traded according to a common plan or a commonly derived recommendation, then all positions in such accounts must be aggregated. If the FCM directs trading, the FCM would be obligated to aggregate the positions for purposes of reporting.

On the other hand, if the associated persons direct trading, each associated person would be deemed to share control of all the positions in all accounts which trade in accordance with the plan. Of course, irrespective of whether a managed account program is involved, when an associated person directs trading in one or more discretionary accounts, the associated person must aggregate the positions in such accounts with all positions in accounts which he holds, has a financial interest in, or controls. Similarly, if the FCM directs trading in a discretionary account, positions in such an account must be aggregated with positions owned or controlled by the FCM for reporting purposes.

The Commission received several comments asking for a definition or

clarification of "control." As indicated above, control is a question of fact in each case. The Commission considers its existing definition adequate for this purpose. Section 1.3(j) of the Commission's regulations, 17 CFR § 1.3(j) (1978), states that:

"An account shall be deemed to be controlled by a person if such person by power of attorney or otherwise actually directs trading for such account."

The February, 1977 release provided that the term "house accounts" would refer to a commodity futures trading account owned by or carried in the name of the futures commission merchant. The Commission believes that a definition of this term is unnecessary at this time.

The Commission received one comment asking for a definition or clarification of the term "account or program controller" used in its February, 1977 release. The term "account or program controller" has been deleted from the adopted rules.

Financial Interest in Accounts. Consistent with the underlying rationale of aggregation, existing reporting Rule 18.10(a) basically provides that if a trader holds or has a financial interest in more than one account, all accounts are considered as a single account for reporting purposes. Several inquiries have been received regarding whether a nominal financial interest in an account requires the trader to aggregate. Traditionally, the Commission's predecessor and its staff have expressed the view that except for the financial interest of a limited partner or shareholder (other than the commodity pool operator) in a commodity pool, a financial interest of 10 percent or more requires aggregation. The Commission has determined to codify this interpretation at this time and has amended Rule 18.01 to provide in part that

"For purposes of this Part, except for the interest of a limited partner or shareholder (other than the commodity pool operator) in a commodity pool, the term 'financial interest' shall mean an interest of 10 percent or more in ownership or equity of an account."

Thus, a financial interest at or above this level will constitute the trader as an account owner for aggregation purposes.

Reporting Status of FCM's. New Rule 18.01(b)¹³ has been adopted to provide generally that for the purpose of determining reporting status of an FCM the positions held in a discretionary account or a customer trading program of the FCM, or of any of its officers,

partners, or employees, shall be considered positions controlled by such FCM—unless (1) a trader other than the FCM directs trading in the account; (2) the FCM maintains only such control over trading in such an account as is necessary to fulfill its duty to supervise diligently trading in the account; and, (3) each trading decision in the discretionary account or customer trading program is determined independently of all trading decisions in other accounts which the FCM holds, has a financial interest in, or controls.

Evidence demonstrating control by FCM. The Commission's February, 1977 proposal noted that an FCM or other trader seeking to avoid the requirement to aggregate positions in accounts affiliated with customer trading programs would have to demonstrate, among other things, that the customer trading program for which the exemption would be sought was independent from the control of the FCM or other trader seeking the exemption. The Commission received several comments concerning the type of evidence that the FCM could submit to demonstrate that a program controller is free to act independently of the FCM. Although the Commission has decided not to require an FCM or other trader to submit evidence prior to trading, the issues raised by the commentators have assisted the Commission in developing its aggregation policy. As indicated above the determination of control must be decided on a case-by-case basis. However, FCM's and other affected persons should be aware that in assessing whether a particular trader exercises control, the Commission will look to whether any of the following indicia of control exist, among others. The Commission believes that discussion of some of these indicia will assist FCM's and other affected persons in complying fully with applicable legal requirements.

(A) **Agreements vesting control in the name of the FCM or other trader.** The documents signed by a customer to participate in the customer trading program account, indicating that the FCM or other trader has the authority to direct trading in the account. Relevant documents would include those opening a customer account, any power of attorney or other document authorizing execution of trades and any special agreement that may be signed by a customer to participate in a customer trading program.

(B) **Advertising.** Advertisements and other promotional material containing statements or representations that

¹³The Commission has redesignated existing Rule 18.01(b)—net positions—as part of new Rule 18.00(b), with certain clarifying changes.

indicate that the FCM or other trader will direct trading in the program.

(C) *Agreements between the FCM and other traders.* Agreements between the FCM and its employees or other affiliated traders demonstrating the degree of independence between the FCM and the trader. Several commentators have suggested that in some cases a contract between the FCM and its associated persons assuring independence of action might be inconsistent with the employer-employee relationship and in any event would be self-serving. The Commission agrees and has attempted to structure its regulations to make clear that control should not be equated with the supervisory responsibilities of the FCM. The existence or nonexistence of a self-serving contract will not be determinative. Of primary importance will be whether the practices of the FCM include only supervisory and surveillance procedures, or whether they interfere with the trading determinations made by the person designated to direct trading in a customer's account.

(D) *Degree of supervision.* Several commentators suggested that an FCM would be abdicating its fiduciary responsibilities to its customers if it allowed any person who directs trading in a program to act completely independent of its supervision in the trading of the customer programs. Commentators stated that the FCM must be allowed to control margin policies and be able to act with respect to a program controller's trading practices which in the opinion of the FCM are not appropriate for its customers.

As stated above, the Commission does not intend for its policy on aggregation to reduce the FCM's responsibility to supervise and monitor the activity of the persons who direct trading in an account or program. The Commission's customer protection regulations require that an FCM diligently supervise persons who control accounts. See Commission rule 166.3, 43 FR 31886, 31890-31891 (July 24, 1978). Thus, the retention by the FCM of general supervisory obligations over the trader who actually directs trading in an account or program will not, in and of itself, require the FCM to aggregate positions. The Commission's aggregation policy and reporting rules have been modified to make this clear.

(E) *Confidentiality of trading decision of a customer trading program.*

Indications of control by the FCM may exist if the FCM has not taken steps to assure that trading decisions in any one program generally not be available to other program managers,

(F) *Access to and reliance on market information generated by the FCM.* One commentator noted that although a person who directs trading in a customer account or program should be denied access to specific trading decisions generated by other customer programs, such persons should not be precluded from access to general research information generated by the FCM. The Commission agrees that research information concerning fundamental demand and supply factors and other data should be readily available to a person who directs trading in a customer account or programs. However, the Commission is concerned that specific trading recommendations of the FCM contained in such information not be substituted for independently derived trading decisions. When the person who directs trading in an account or program regularly follows the trading suggestions disseminated by the FCM, such account or program will be evidence that the account is controlled by the FCM.

(G) *Financial interest of the futures commission merchant.* As stated above, when the financial interest of the FCM is greater than 10 percent, the Commission will consider the FCM to be the owner of all positions in the program. However, quite apart from considerations of ownership, any financial interest may also be indicative of control of the account. Thus, a financial interest held by an FCM in a customer trading program will be considered for this purpose.

Common trading patterns. Several commentators offered arguments that common trading patterns are an insufficient basis for requiring aggregation of accounts for reporting or speculative limit purposes. The Commission disagrees. A common trading pattern indicates either that several programs are traded in accordance with a common plan or understanding, or that the programs share a common design despite what the original object of each program may have been or the difference in the stated factors which are to influence trading in each program. The Commission is mindful that at times similar trading patterns may result in the case of customer trading programs that are in fact designed to react to different market signals. But the existence of common trading patterns generally indicates that the programs are similar in design and purpose and hence most probably under the control of the FCM or jointly controlled by several traders. Moreover, it is the responsibility of the FCM to assure that supposedly different

trading programs offered by or affiliated with such FCM, in fact, are different in design or purpose.

Additional possible amendments. The Commission will be reviewing the existing reporting and recordkeeping requirements and special call provisions set forth in its regulations in order to ascertain whether any modifications are necessary in order to assure that the documentation relating to the existence of control is readily available for Commission review.

Discretionary accounts of associated persons. In its February 25, 1977 release the Commission proposed several criteria that it would consider to determine if an associated person actually exercises control over a discretionary account or is merely providing administrative service to an account which an FCM controls. 42 FR 11152. The Commission's policy and regulations herein adopted are consistent with that approach. Discretionary accounts, whether or not traded as part of a managed trading program, raise the same concerns as other customer trading programs. Therefore, aggregation of positions in such accounts for determining reporting status and for speculative limit purposes should be based on the same factors as those that apply to managed account programs. Thus, if the associated person directs trading in the customer's account it would be required to aggregate positions in such account with all other positions which the associated person holds, has a financial interest in, or controls. On the other hand, the FCM would be required to aggregate where it is determined that the associated person acts only at the direction of the FCM. In that regard the Commission will look to the overall policy of the FCM regarding associated persons who are authorized to handle discretionary accounts; the apparent reliance by the associated persons who handle discretionary accounts on the suggested trading decisions of the FCM; and whether a pattern of trading exists between the discretionary account and any other customer trading program or house account.

Commodity pools and partnership accounts. The Commission's February 25, 1977 proposed policy statement indicated that a general partner in a commodity pool organized as a limited partnership need not aggregate positions in the partnership account with other positions which the general partner held, had a financial interest in, or controlled, if the general partner could show that (1) he had divested himself of control over the trading in the

partnership's account, and (2) he had maintained a minimal beneficial interest in the partnership of no more than necessary to form a partnership under applicable state or federal law and in any case less than 10 percent. However, the proposal did not make clear that when the general partner of the commodity pool is also an officer, partner, or employee of an FCM, the partnership account must also be considered as any other customer trading program of the FCM in order to determine whether the FCM or the officer, partner or employee should aggregate. In order to make this clear, the definition of the term "customer trading program" as adopted includes reference to commodity pools. Thus, under Rule 18.01(b), positions in accounts of customer trading programs of officers, partners or employees of an FCM, including commodity pools, are presumed to be controlled by the FCM. Further, the Commission has adopted new Rule 18.01(c) of its regulations to provide rules for determining reporting status of CPO's and has included reference to commodity pools in its statement of policy on aggregation.¹⁴ Since Section 18.01(a) makes clear that any person holding a financial interest in any account 10% or more in ownership or equity is an account owner, the Commission has deleted from its final statement of policy and reporting rules the proposed financial limitation which specifically referred to commodity pools.

The rules for determination of reporting status provide that positions held in all commodity pools operated by a CPO, other than a CPO who is an officer, partner, or employee of an FCM, shall be considered positions controlled by such CPO unless:

- (1) A trader other than the CPO directs trading in such commodity pool;
- (2) The CPO maintains only such minimum control over trading in the commodity pool that is necessary to fulfill its duty to supervise diligently all accounts of the pool; and
- (3) Each trading decision of the commodity pool is determined independently of all trading decision in other commodity pools and position in accounts which the CPO holds, has a financial interest in, or controls.

The above rules apply to all of commodity pool operators, whether individuals, corporations or partnerships. And, of course, any trader other than the commodity pool operator who directs or otherwise controls

trading for the pool, such as an independent commodity trading advisor, must aggregate the pool's positions with his own for speculative limit and reporting purposes. *Interest of a commodity pool participant, including a limited partnership interest.* The February 25, 1977, release stated that limited partners in partnership accounts, such as pool participants in a commodity pool limited partnership, who do not control the trading or have property rights in the partnership, are not required to combine the trading in the partnership accounts with any other account which they own or control. One commentator generally requested an explanation of the term "property rights." The term originated in A.D. 234 (July 20, 1972) and referred to an individual interest in the specific assets of the partnership, as distinct from the residual beneficial interest in the partnership account.

The Commission is in agreement with the approach taken by its predecessor. The determination must be made on a case-by-case basis. Where a limited partner neither has direct or indirect control of trading in the partnership account, nor has a property interest in particular assets of the partnership, other than his residual, beneficial interest in the account or accounts of the partnership, the limited partner generally is not required to aggregate the positions held in partnership accounts with other positions which he holds, has a financial interest in, or controls. In the Commission's final reporting rules and statement of policy the term "property interest" has been substituted for the term "property rights."

Speculative Trading and Position Limits. Two commentators suggested that the Commission inquire into the current necessity and advisability of speculative limits in general. The Commission has recently eliminated daily trading limits on all commodities traded for which such limits were previously imposed. See 44 FR 7124 (February 6, 1978). However, after an extensive review of both trading and position limits, the Commission has determined to continue the enforcement of position limits. Further, the Commission believes that the modifications to its aggregation policy will to a great extent alleviate the burden to aggregate previously imposed on certain FCM's.

Uniform Exchange and CFTC Rules on Aggregation. The Commission's proposal had generally requested comment on the need to require exchanges to adopt the CFTC's

aggregation policy. One commentator requested a separate comment period for interested parties to respond if the Commission were to propose regulations in this area. The Commission has decided not to take action in this area at this time; however, the Commission may in the near future issue a Federal Register release requesting comment on a proposed rule requiring exchanges which have limits on the maximum net long or net short position which one person may hold or control under contracts for future delivery of a particular commodity on or subject to the rules of the contract market to adopt and enforce an aggregation policy at least as stringent as that set forth in the Commission's statement of policy on aggregation.

Statement of Aggregation Policy

Accordingly, for the reasons stated above, the Commission adopts the following statement of policy on the aggregation of positions in certain accounts for purposes of speculative limits. This statement of policy is meant to advise traders of the enforcement policy of the Commission.

1. All positions in accounts directly or indirectly controlled by a person shall be included with the positions in accounts owned by such person for purposes of determining whether such person has exceeded speculative position limits set by the Commission. Except for a limited partner or shareholder (other than a commodity pool operator) in a commodity pool, any person who has a 10 percent or more financial interest in an account will be considered as an account owner.

2. Positions in accounts held by two or more persons acting pursuant to an expressed or implied agreement or understanding shall be combined as if the positions were held by and trading done by a single person.

3. *Customer trading programs and discretionary accounts.* The positions held in a discretionary account or held in an account which is part of, or participates in, or receives trading advice from, a customer trading program of a futures commission merchant, or of any of the officers, partners, or employees of such futures commission merchant, shall be considered positions controlled by such futures commission merchant unless:

(a) A trader other than the futures commission merchant directs trading in such an account;

(b) The futures commission merchant maintains only such minimum control over the trading in such an account as is

¹⁴ The Commission has redesignated existing Rule 18.01(c)—Gross positions—as part of new Rule 18.00(h), with certain clarifying changes.

necessary to fulfill its duty to supervise diligently trading in the account; and,

(c) Each trading decision of the discretionary account or the customer trading program is determined independently of all trading decisions in other accounts which the futures commission merchant holds, has a financial interest in, or controls.

4. *Commodity Pools.* The positions held in all commodity pools operated by a commodity pool operator, other than a commodity pool operator who is an officer, partner, or employee of a futures commission merchant, shall be considered positions controlled by such commodity pool operator unless:

(a) A trader other than the commodity pool operator directs trading for such commodity pool;

(b) The commodity pool operator maintains only such control over trading in the commodity pool as is necessary to fulfill its duty to supervise diligently all accounts of the pool; and

(c) Each trading decision of the commodity pool is determined independently of all trading decisions in other commodity pools and positions in accounts which the commodity pool operator holds, has a financial interest in, or controls.

Other changes in the reporting requirements. The Commission is also adding § 17.00(d) to its regulations to provide that where an FCM files a series 03 report for purposes of Part 18 for an account in which it has a financial interest the FCM is not required to file the report as to such an account required pursuant to § 17.00(a).

In consideration of the foregoing, the Commission, pursuant to its authority contained in sections 4a, 4f, 4g, 4i and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 6a, 6f, 6g, 6i and 12a(5), as amended, Pub. L. 95-405, §§ 5 and 6, 92 Stat. 869 (1978), hereby amends Parts 15, 17 and 18 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 15—REPORTS—GENERAL PROVISIONS

Section 15.00 is amended by adding paragraphs (f), (g), (h) and (i) as follows:

§ 15.00 Definitions.

* * * * *

(f) *Customer Trading Program.* This term means any system of trading offered, sponsored, promoted, managed or in any other way supported by, or affiliated with, a futures commission merchant, a commodity trading advisor, a commodity pool operator, or other trader, or any of its officers, partners or employees, and which by agreement,

recommendations, advice or otherwise directly or indirectly controls trading done and positions held by any other person. The term includes but is not limited to, arrangements where a program participant enters into an expressed or implied agreement not obtained from other customers and makes a minimum deposit in excess of that required of other customers for the purpose of receiving specific advice or recommendations which are not made available to other customers. The term includes any program which is of the character of, or is commonly known to the trade as, a managed account, guided account, discretionary account, commodity pool or partnership account.

(g) *Guided Account Program.* This term shall mean any customer trading program which limits trading to the purchase or sale of a particular contract for future delivery of a commodity that is advised or recommended to the participant in the program.

(h) *Discretionary Account.* This term means a commodity futures trading account for which buying and/or selling orders can be placed or originated, or for which transactions can be effected, under a general authorization and without the specific consent of the customer, whether the general authorization for such orders or transactions is pursuant to a written agreement, power of attorney, or otherwise.

(i) *Managed Account Program.* This term means a customer trading program which includes two or more discretionary accounts traded pursuant to a common plan, advice or recommendations.

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS AND FOREIGN BROKERS

Section 17.00 is amended by adding a new paragraph (d) as follows:

§ 17.00 Information to be furnished by futures commission merchants and foreign brokers.

* * * * *

(d) A futures commission merchant which files a series 03 report for purpose of Part 18 for an account in which it has a financial interest is not required to file a report for such an account pursuant to this section.

PART 18—REPORTS BY TRADERS

1. Section 18.00 is amended by adding a new paragraph (h) as follows:

§ § 18.00 Information to be furnished by traders.

* * * * *

(h) *Reporting of positions, net or gross.* (1) *Net positions.* The reporting trader shall report the net open contracts, long or short, in each future of such commodity in all such accounts, except as specified in subparagraph (2) of this section.

(2) *Gross positions.* In the following cases, the reporting trader shall report the gross open contracts, i.e., total long open contracts and total short open contracts in each future of such commodity in all such accounts:

(i) Positions on the New York Mercantile Exchange;

(ii) Positions on the Chicago Mercantile Exchange;

(iii) Positions on any exchange carried through different futures commission merchants or foreign brokers;

(iv) Positions which represent spreads between different types of contracts in the same commodity;

(v) Positions against which notice have been stopped or issued, but upon which actual delivery has not been made;

(vi) Positions in accounts owned or held jointly with another person or persons as specified in § 18.01; and

(vii) Positions in accounts subject to trading control by the reporting trader, but in which he has no interest as an owner as specified in § 18.01.

2. Section 18.01 is amended by deleting paragraphs (a), (b) and (c), and by adding as new paragraphs (a), (b) and (c) the following:

§ 18.01 Interest in or control of several accounts.

(a) *Multiple accounts.* If any trader holds or has a financial interest in or controls more than one account, whether carried with the same or with different futures commission merchants or foreign brokers, all such accounts shall be considered as a single account for the purposes of determining whether such trader has a reportable position and for the purpose of reporting. For the purpose of this Part, except for the interest of a limited partner or shareholder (other than the commodity pool operator) in a commodity pool, the term "financial interest" shall mean an interest of 10 percent or more in ownership or equity of an account.

(b) *Customer trading programs and discretionary accounts of traders who are futures commission merchants.* For the purpose of paragraphs (a) and (d) of this section, positions held in a discretionary account, or held in an account which is part of, or participates in, or receives trading advice from, a customer trading program of a futures commission merchant, or any of the

officers, partners, or employees of such futures commission merchant, shall be considered positions controlled by such futures commission merchant unless:

(1) A trader other than the futures commission merchant directs trading in such an account;

(2) The futures commission merchant maintains only such minimum control over the trading in such an account as is necessary to fulfill its duty to supervise diligently trading in the account; and

(3) Each trading decision of the discretionary account or the customer trading program is determined independently of all trading decisions in other accounts which the futures commission merchant holds, has a financial interest in, or controls.

(c) *Commodity Pools.* For the purpose of paragraphs (a) and (d) of this section, the positions held in a commodity pool operated by a commodity pool operator, other than a commodity pool operator who is an officer, partner or employee of a futures commission merchant, shall be considered positions controlled by such commodity pool operator unless:

(1) A trader other than the commodity pool operator directs trading for such commodity pool;

(2) The commodity pool operator maintains only such control over trading in the commodity pool as is necessary to fulfill its duty to supervise diligently all accounts of the pool; and

(3) Each trading decision of the commodity pool is determined independently of all trading decisions in other commodity pools and positions in accounts which the commodity pool operator holds, has a financial interest in, or controls.

(d) * * *

Issued in Washington, D.C. on June 8, 1979.

Jane K. Stuckey,

Secretary to the Commission, Commodity Futures Trading Commission.

[FR Doc. 79-18380 Filed 6-12-79; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB-31]

Staff Accounting Bulletin No. 31

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin

SUMMARY: This interpretation clarifies and reiterates the Staff's long-standing

position concerning the presentation believed appropriate in balance sheets for notes and other receivables evidencing a promise to contribute capital from affiliates of corporate general partners in limited partnership offering filed with the Commission. This interpretation supersedes Topic 4-G(2) which also stated the staff's view with respect to this matter.

DATE: June 7, 1979.

FOR FURTHER INFORMATION CONTACT: Howard P. Hodges, Jr. (202-755-1744), Division of Corporation Finance, or Eugene W. Green, Office of the Chief Accountant (202-755-0222), Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the federal securities laws.

George A. Fitzsimmons,

Secretary.

June 7, 1979.

Staff Accounting Bulletin No. 31

The staff hereby issues topic 4-I, "Notes and Other Receivable from Affiliates." Topic 4-I supersedes Topic 4-G(2) which also stated the staff's position with respect to certain receivables from affiliates. It has come to our attention that some registrants have interpreted that topic to apply only to notes and other receivables arising directly from the sale of capital stock. As a result, several registrants have not followed the presentation described under Topic 4-G(2) of Staff Accounting Bulletin No. 1 in recent limited partnership offerings filed with the Commission.

To preclude possible misunderstanding in the future as to the staff's position concerning the presentation of such items in balance sheets, this revised interpretation is placed under a separate caption "Notes and Other Receivables from Affiliates."

Topic 4: Equity Accounts

* * * * *

I. Notes and Other Receivables from Affiliates.

Facts. The balance sheet of a corporate general partner is often presented in a registration statement. Frequently the balance sheet of the general partner discloses that it holds notes or other receivables from a parent or another affiliate. Often the notes or other receivables were created in order to meet the "substantial assets" test which the Internal Revenue Service utilizes in applying its "Safe Harbor" doctrine in the classification of organizations for income tax purposes.

Question. How should such notes and other receivables be reported in the balance sheet of the general partner?

Interpretive Response. While these notes and other receivables evidencing a promise to contribute capital are often legally enforceable, they seldom are actually paid. In substance these receivables are equivalent to unpaid subscriptions receivable for capital shares which Rules 5-02.38 of Regulation S-X requires to be deducted from the dollar amount of capital shares subscribed.

The balance sheet display of these or similar items is not determined by the quality or actual value of the receivable or other asset "contributed" to the capital of the affiliated general partner, but rather by the relationship of the parties and the control inherent in that relationship. Accordingly, in these situations, the receivable must be treated as a deduction from stockholders' equity in the balance sheet of the corporate general partner.

[FR Doc. 79-18374 Filed 6-12-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 290

[Docket No. RM79-6]

Procedures Governing Collection and Reporting of Information Concerning Cost of Providing Retail Electric Service

June 5, 1979

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final regulations.

SUMMARY: These regulations implement section 133 of the Public Utility Regulatory Policies Act of 1978 and establish procedures governing the collection and reporting of information concerning the cost of providing retail electric service.

DATES: Effective July 15, 1979. Written comments on § 290.404 (d) and (f) by July 15, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (Reference Docket No. RM79-6).

FOR FURTHER INFORMATION CONTACT:

Gregory Martin, Office of Commissioner Matthew Holden, 825 North Capitol Street, NE., Room 9010, Washington, D.C. 20426 (202) 275-4176.

William Lindsay, Office of Electric Power Regulation, 825 North Capitol Street, NE., Room 5200, Washington, D.C. 20426 (202) 275-4777.

Jane Phillips, Office of the General Counsel,
825 North Capitol Street, NE., Room 8000,
Washington, D.C. 20426 (202) 275-0422.

SUPPLEMENTARY INFORMATION: In this final rule, we seek to implement section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA) Pub. L. 95-617. This provision of the statute requires the Federal Energy Regulatory Commission (Commission) to prescribe, within 6 months of enactment, the methods, procedure and format to be used by electric utilities in gathering information necessary to determine the costs of providing electric service.

We have made an intense effort to inform electric utilities, their customers, potential intervenors and State regulatory agencies about both the nature of thinking and the timing of action within the Commission. Since last November we have held a variety of staff-level conferences with interested persons, the details of which are recorded in the public file. On December 4, 1978, an informal conference was held to elicit the views of interested persons, and on January 13, 1979, representatives of the Commission met with Commissioners from sixteen State regulatory authorities constituting the Ad Hoc Committee on the National Energy Act of the National Association of Regulatory Utility Commissioners (NARUC).

Various memoranda, correspondence and drafts concerning concepts of the Commission's responsibilities regarding section 133 have been placed in the public file and have been reported in the trade press. The product of this procedure was the Notice of Proposed Rulemaking in Docket No. RM79-6, adopted by the Commission on March 1, 1979, and printed in the Federal Register on March 7, 1979 (44 FR 12438).

In order to avail ourselves of the opportunity for comment on the rule, we held four regional hearings on the proposed rules in addition to soliciting written comments. During the 30-day comment period the Commission received, in addition to the 626 pages of regional hearing transcript, more than 230 oral and written comments from over 180 utilities, State regulatory authorities and consumer groups. Because of the range, number and complexity of these comments the Commission was unable to issue a final rule within the prescribed time limits and issued on May 8, 1979 (44 FR 29102) a Notice of Intent to Act in promulgating final regulations by May 30, 1979.

The Commission has considered carefully all of the testimony and all of the written comments received on its Notice of Proposed Rulemaking,

including the 60 or more comments that were filed as many as two weeks after the close of the comment period.

The procedure which we have followed is, we posit, in more than substantial compliance with the requirements and spirit of the Administrative Procedure Act and any other applicable provisions of law, as well as the requirements of elementary fairness and good sense.¹

Basic Determination

Upon careful review, we have concluded that the basic concept of the proposed rule was correct, although we have been persuaded to limit many of the specific data requirements originally contained therein.

The Joint Explanatory Statement of the Committee of Conference succinctly summarizes at page 86 the general purpose of section 133:

The conferees intend that good information with regard to costs of providing service must be readily available on a timely basis to everyone concerned.

In preparing its rules under section 133, the Commission was faced with certain key questions as to what would constitute good information readily available on a timely basis. Those issues include: The nature of the cost data to be reported (i.e., whether accounting, marginal or both costs should be required); the extent of reporting (i.e., whether raw data or calculations should be required); and the format for reporting (i.e., whether information should be supplied in Form 1 or in a discrete form for section 133 alone. The initial discussion in this Preamble focuses on these three issues. The Commission has also undertaken a section by section analysis of the

¹ We specifically reject the comments made in a late filing (on behalf of Appalachian Power Company and eleven other utilities) which assert that this final rule violates Executive Order 12044. Executive Order 12044 requires that the public be given at least 60 days to comment on any proposed "significant regulations" and that, if the additional economic impact of the regulations will be equal to or greater than \$100 million, the agency prepare a comprehensive regulatory analysis assessing the cost of the program and alternative approaches which could minimize its adverse impact on the economy. Executive Order 12044 does not purport to bind independent regulatory commissions acting as agents of Congress. However, the Commission has acted on its own initiative in full accord with the spirit and intent of this order. Utilities have had full opportunity to comment in the entire rulemaking process (not merely on specific regulations) with full understanding of its foundation and evolution. Moreover, we have sought to ascertain the cost of compliance, and to choose cost minimizing strategies wherever possible. See, for example, the discussion at pages 14 through 16 and 66 and 67. Given the mandatory time for promulgating these rules, the Commission could not submit to a paralysis of analysis that would violate its specific statutory obligations under section 133.

comments, keyed to the provisions in the proposed rule and has indicated what position it has adopted in the final rules.

Accounting or Marginal Costs—Logal Issues

Several commentators, mostly utilities, maintained that to require marginal cost data would go beyond the minimum requirements of section 133 since that section of PURPA does not contain any explicit reference to marginal costs or marginal cost pricing. One of these commentators² further asserted that "the Commission lacks the statutory authority to compel the submission of marginal costs." This same commentator³ also argued that it was "reasonable" to assume that when it used the term "costs" in Title I, Congress intended reference to the industry's understanding of the term as referring to embedded costs or fully allocated costs.

In the proposed rules, we interpreted the obligation to insure that "good information with regard to [the] costs of providing service * * * be readily available on a timely basis to everyone concerned * * *" to require the gathering and reporting of both marginal and accounting cost information. Paragraph (a) of section 133 lists four broad categories of information that are to be required under this rule, and then states: "Such rules shall provide that information required to be gathered under this section shall be presented in such categories and in such detail as may be necessary to carry out the purposes of this section." The Commission interprets this as providing considerable latitude for the exercise of its judgment, including the authority to require both accounting cost information and marginal cost information.

It is true that Title I of PURPA does not use the words "marginal costs." However, Title I does not specifically mention accounting or embedded costs either. We do not dispute that this Commission and various State regulatory commissions have typically used the term "costs" as synonymous with embedded or fully allocated costs. However, the legislative history of Title I of PURPA suggests that Congress wanted State regulatory authorities and non-regulated utilities to conduct a

² See the comments filed on behalf of the Edison Electric Institute (EEI) and Individual Members of the Utility Regulatory Analysis Program, April 6, 1979, Part II, pages 1 and 3. The same assertion is later reiterated as a subtitle heading "Elementary Rules of Statutory Interpretation do not Permit the FERC to Require Marginal Cost Information under Section 133."

³ See EEI comments, Part II, page 5.

thorough reevaluation of retail rate structures. State regulatory authorities and non-regulated utilities cannot begin to make decisions on the issue of whether marginal or embedded costs are more relevant for utility cost of service calculations unless they are provided information showing what the numbers look like under the two approaches. The Commission will not interpret section 133 so as to bar the reporting of marginal cost information and thus hinder such an inquiry.

Accounting or Marginal Costs—Policy Considerations

We also received a variety of policy and procedural arguments against the marginal cost reporting requirement. Several commentators urged us not to set forth data requirements but instead to accept as sufficient for complying with section 133 whatever information is currently supplied to State regulatory authorities. Others argued that it would be duplicative to require both accounting and marginal cost data, and that the utility or its State regulatory authority should be allowed to choose the appropriate type of data necessary for performing cost calculations.

It is our belief that Congress included section 133 in PURPA to ensure the availability of adequate cost and load data in all states. The regulations would not comply with the intent of Congress if they simply required the submission of whatever cost of service information is currently supplied to the relevant State regulatory authorities.

Many of those who objected to requiring marginal cost data imputed to the industry a lack of familiarity with marginal cost concepts and contended that marginal cost calculations were imprecise and subject to considerable speculation. These commentators argued that accounting cost data are more familiar to the industry and would therefore be more reliable.

The contention that industry is not familiar with marginal cost methods appears overstated. We estimated that marginal cost studies have been initiated or completed for approximately fifty of the one hundred and ninety utilities that will be required to comply with the section 133 reporting requirements in November 1980. Nor do we agree that accounting cost calculations will necessarily be more reliable. We do not dispute that accounting or embedded costs have been the industry norm for many years. However, such costs have not been used extensively for determining time differentiated costs. Section 133, in contrast, emphasizes the need to

determine how costs differ by time of day and season of year. No present methods for determining time differentiated accounting costs are very advanced. As one respondent commented, "The time differentiation of accounting costs, as you know, is probably subject to [as] much uncertainty and debate at this point, as are most of the aspects of the marginal cost studies."³

Calculations or Raw Data

In preparing its rules under section 133, the Commission recognized that it had the discretion to require only raw information which could then be used as the basis for calculating costs by costing periods, by customer group and by voltage level or to require calculated costs for such functions and customer groups. The question was raised of whether the reporting requirements should have been limited to raw data or should also have included calculated costs. In its Notice of Proposed Rulemaking the Commission recognized that the information must be calculated in order to be useful and posed the question of where the burden of such calculations should lie: with the utility providing the information or with each of the potential users of the information.

Over a third of the participants in this rulemaking addressed this question. Several indicated that the decision should be left to either the discretion of the utility or to the relevant State regulatory commission. Those arguing against supplying more than raw information asserted that the benefits accruing from such calculations would not outweigh the associated expenses and emphasized that such expenses would ultimately be borne by ratepayers. Those supporting the requirement that utilities submit calculations generally argued that it would be easier and less expensive for the submitting utility rather than outside parties to make the calculations.

Under the final rules, the Commission has required the submission of both raw information and calculations. The Commission believes that there are several advantages to requiring both raw information and calculations. First, the availability of calculated costs will lead to more informed participation by various intervenors in retail rate proceedings. We agree with one comment that many State regulatory commissions "do not currently have the expertise necessary for conducting in-

house cost of service studies * * *"⁴ The resources of environmental and residential consumer groups are generally even more limited. One commentator indicated in this regard: "We cannot overemphasize the importance of requiring the utilities to complete the summary table * * *. Limiting the utilities' responsibilities to the compilation of raw data would restrict the ratesetting process to those groups able to hire expensive consultants before intervening in a rate case [and] * * * would tend to exclude consumer and environmental groups from the ratemaking process * * *"⁵

If intervenors and State commission staffs do not have ready access to cost of service information, in a manageable form, the quality of the deliberation will suffer or the proceedings will be delayed until the data become available to all parties. We would be remiss if we promulgated regulations which produced either result.

A second advantage of having utilities perform calculations is the likelihood that confusion about what the data actually means, in the understanding of the utility, will be minimized. One utility commented that "misinformation and misunderstanding will be reduced with the utilities performing the marginal cost studies".⁶

A third advantage to such calculations is that they avoid unnecessary duplication of effort. Not every calculation is subject to dispute in a typical rate case. There are often broad areas of agreement between the different parties in a rate proceeding. If the reporting utilities perform certain calculations, State commissions and intervenors can focus their more limited resources on controversial and disputed areas.

The fourth advantage is that other users of the information will have a better opportunity to understand the unique circumstances of the particular utility. The calculation of time differentiated rates, based on either accounting or marginal costs, is a relatively new area for both the industry and State regulatory commissions. We have tried to draft regulations that would accommodate calculation of time differentiated costs based on any one of the several principal approaches. Each utility's particular circumstances will suggest the selection of one approach as

⁴Comments of the Florida Public Service Commission.

⁵Comments of the Environmental Defense Fund. The contrary view was advanced by several representatives of low-income interests and by ELCON.

⁶Comments of Detroit Edison Company. See also the comments of Ernst and Ernst.

³See comments of the Public Service Company of New Hampshire at the Cambridge public conference.

preferable to another. After they have performed such calculations "utilities will be in an excellent position to suggest improvements."⁷

One commentator strongly objected to requiring calculations and argued that:

* * * an information gathering procedure which allows the utility to select marginal and embedded cost methodologies rather than providing raw information is necessarily inconsistent with the purposes of PURPA. First, it allows the utility to define and structure the raw materials for ratemaking proceedings to its own purposes. Intervenor will only be able to derive the raw information necessary to construct contrary positions by "unbundling" the utility cost study to get at its premises and raw data.*

A different commentator, representing low income residential customers, also objected to the calculation requirement, contending that it would only serve to cut off "a full review of the issues involved".⁹ We disagree that the calculation requirement as provided would serve to cut off debate on controversial issues.

We do not intend that raw information be hidden within the cost calculations although it appears that the regulations as proposed might arguably have permitted such a possibility. (See §§ 290.501(d) and 290.502(d).) The final rules are specifically designed to emphasize that all of the accounting cost, marginal cost and load information (specified in Subparts B, C and D) must be provided separately from and in addition to whatever cost calculations are developed in compliance with Subpart E. Therefore, an intervenor wishing to dispute the Subpart E calculations will not have to "unbundle" any calculations to gain access to raw information. Utilities will have the discretion to choose whichever method they deem appropriate for their system. However, if an intervenor disagrees with the method selected, the information necessary to develop alternative calculations will also be available.

In summary, requiring the calculations will provide a common point from which all parties can commence an analysis of rate design issues. Requiring that the supporting raw information also be provided will assist those who wish to challenge the assumptions underlying the chosen cost methodology or to propose a different methodology.

The Commission recognizes that requiring both raw and calculated information imposes certain costs on the reporting utility, at least if it has not previously conducted marginal cost studies. At each of the public conferences we asked for estimates on the cost of supplying marginal cost data and on the cost of preparing a marginal cost study. The purpose was to provide the Commission with an informed basis to adjudicate the reasonableness of any such requirement. The estimates of initial cost, as provided by utility managements, ranged from \$40,000 to \$656,000. Most estimates fell in the \$50,000 to \$150,000 range.¹⁰ The average electric operating revenues in 1977 for the 258 utilities covered by section 133 of PURPA were approximately \$248 million. This implies that the additional cost incurred to comply with Subparts B, C and E will typically range from 0.02 to 0.06 percent of electric operating revenues. The Commission believes that these costs are not unreasonable in light of the potential benefits to be gained in providing all sides—utilities, large industrial customers, residential users, *et al.*—with full opportunities to participate, on the basis of good information, in the consideration of electric rate issues.

In addition to the question of cost calculations proposed under Subpart E, we solicited comments as to whether we should require that utilities calculate marginal energy costs and annual carrying charge rates. With regard to the question of whether utilities should be required to report calculated marginal energy costs, as specified in § 290.303, or whether it is reasonably possible for users of the reported raw information to calculate those costs from the raw information, the comments followed essentially the same pattern as those regarding the calculations specified in Subpart E. With regard to whether or not utilities should be required to submit calculated annual carrying charge rates

as specified in § 290.307, a majority of those responding indicated that they preferred that calculations be required. Most did not strenuously object to providing raw information to support those calculations.

For those reasons discussed regarding calculations in Subpart E, the Commission will require the calculation of marginal energy costs and annual carrying charge rates in the final rules.

Format for Collection of Raw Information

In the Notice of Proposed Rulemaking, the Commission solicited comments as to whether an entirely new form or a modified FERC Form 1, already required to be filed by a number of the utilities required to report under section 133, should be used for the submission of information.

Based upon comments¹¹ and its own evaluation, the Commission has chosen not to modify Form 1 but rather to create a new form. To the extent that information already required by FERC Form 1 is included in the filings required by section 133, the simple transfer of that information from Form 1 to the new form should be easily accomplished.

The Commission was concerned that modification of Form 1, which presently serves a useful accounting function, would create confusion for both utilities and potential users of the information submitted under section 133. In addition, many utilities indicated that modification of Form 1 would require substantial modification of programs designed to comply with its present requirements.

Subpart A—Coverage, Compliance and Definitions

§ 290.101 Coverage.

The language of both the proposed and the final rule tracks the statutory

¹¹ Most of the commenting parties expressing a preference for utilization of a modified Form 1 cited a concern over the burden of providing duplicative information. The parties favoring modification were: Indianapolis Power and Light, Northern States Power Co., Texas Power and Light Co., Central Illinois Public Service Co., United Illuminating Co., Kansas Gas and Electric Co., Massachusetts Electric Co. and Narragansett Electric Co., Texas Electric Service Co., Carolina Power and Light Co., Climax Molybdenum Co., Northeast Utilities, Florida Power and Light Co., Arkansas Power and Light Co., U.S. Office of Consumer Affairs, El Paso Electric Company.

The commenting parties opposing a modification of Form 1 were: Middlewest Service Company, Florida Public Service Company, West Texas Utilities, Puerto Rico Water Resources Authority, Pacific Power and Light Co., Publicly-Owned Systems, American Public Power Association, Middlewest Services Co., Georgia Power Co., Seattle City Light, Pennsylvania Power and Light Co., Central Louisiana Electric Co., and National Rural Electric Cooperative Association.

⁷ See the comments of Detroit Edison Company.

⁸ See comments of Electrical Consumers Resource Council (ELCON).

⁹ Several other organizations representing similar constituencies strongly supported requiring calculations. See, for example, the comments of Legal Aid of Missouri, Prairie State Legal Services, Inc. and the Ohio Association of Community Action Agencies.

¹⁰ See the written comments of Utah Power and Light, Tampa Electric Company, Florida Power Corporation and City Public Service Board of San Antonio, Texas, Massachusetts Electric Co., Public Service of Colorado, Central Power and Light Co., Central and Southwest Corp., Pacific Gas and Electric Co., and Consumers Power Company.

These are necessarily rough estimates, subject to errors in both directions. For example, the estimates may be too low because some utilities may have simply estimated the cost of completing a marginal cost study without taking into account that Subpart B may require data that would not be used in their own marginal cost studies. On the other hand, some of the estimates are probably too high because the data requirements in the proposed version of Subpart B were more extensive than those which will be required in the final version of Subpart B. Furthermore, these are estimates of initial cost. The cost estimates for subsequent filings are, in almost all instances, as much as 50 percent lower.

language of section 102 of PURPA in designating what utilities will be required to report under Part 290. A utility would be required to report beginning in the first even-numbered calendar year not less than two years following the first year (after December 31, 1975) in which it had the requisite volume of retail sales but no earlier than 1980. Such utility will also be required to report biennially for all future years even if its volume of sales in those years falls below the statutory threshold. Although the Secretary of the Department of Energy is required under section 102(c) of PURPA to publish a list of the covered utilities, omission from this list will not relieve a utility covered under § 290.101 from the reporting requirements of Part 290.

A number of smaller utilities stated that 500 million kilowatt-hours annual retail sales is too low a threshold for coverage. They argued that the cost of compliance is unfairly burdensome to smaller utilities, and is proportionately higher for them than for large utilities.¹² In addition, some municipal utilities and rural electric cooperatives argued that the administrative ratemaking procedure applicable to them is such that the information required under the proposed rules would serve neither the purposes of section 133 nor any other useful purpose.¹³

The coverage of section 133, as a part of Title I of PURPA, is stated in section 102 of the Act. The Commission does not have authority to change that coverage. We observe further that the purpose of section 133¹⁴ is equally applicable to large and small utilities. We are concerned, however, about the effect of immediately imposing this new reporting requirement on small utilities. Therefore, we have included a special two year extension for utilities having annual retail sales of less than one billion kilowatt-hours. Such utilities will be relieved from reporting now or at any future date that information which they would otherwise be required to report in 1980. We expect that in this two year period before the first filing is required, these small utilities will be able to make the managerial and technical preparations required to meet the requirements of this part as

economically as possible. We also expect that the two year period will provide an opportunity for some small utilities to establish joint load research programs so as to reduce the costs of compliance for each participant. This extension is granted for such good cause and is contained in § 290.102(d).

Several utilities¹⁵ argued that no useful purpose will be served by applying the requirements in Part 290 to them. The Commission has granted such generic extensions and exemptions in this part as it deems necessary and would expect such utilities to seek any additional relief through the exemption and extension procedures provided in Subpart F.

The Tennessee Valley Authority suggested "a special reporting procedure whereby an electric power supplier, such as TVA, which is both a covered electric utility within the meaning of PURPA and the sole source of power at wholesale for an integrated system of other electric utilities subject to the reporting requirements of section 133, may file a consolidated report for itself and for its covered distributing utilities. Such a provision would be especially appropriate in cases in which the wholesale supplier designs the resale rates applied by the distributing utilities."¹⁶ The Commission accepts this suggestion and has embodied it in § 290.102(c) of the final rule.

§ 290.102 Compliance.

The proposed rule established when and for what periods of time information specified in Subparts B, C, D and E were to be reported and the manner in which information was to be provided to the public.

§ 290.102(a) Information gathering and filing.

Comments were received from a number of utilities objecting to the burden of providing copies of filings for public inspection at their own offices, and suggesting that State regulatory agencies or this Commission perform this function. Other utilities requested that the rule state that they would not be required to bear the cost of providing copies to requesting parties.¹⁷

We believe that public access to the information in filings under this rule is as important as the quality of the

information reported. Although providing for public inspection and copying may require additional public information resources for some utilities, we believe this is well justified by the importance of the information. Therefore, we continue to require that copies be available at each utility's principal offices. We agree with the comments regarding cost of reproduction, and have made such modification in the final rule.

§ 290.102(b) Time of filing and reporting period.

There were many comments on this paragraph of the proposed rule. Most recommended changes to either the filing dates or the six-month staleness limitation so as to encourage or at least permit use of the most recent calendar year as the reporting period.¹⁸ We have adopted this approach in § 290.103(b) of the final rule and have further provided in § 290.103(c) for the case in which a utility has recently gathered information in connection with a retail rate proceeding. If information so gathered is based on a reporting period reasonably near the "most recent calendar year," it serves no interest to require the utility to do additional data gathering and calculations to comply with our requirements. We will, therefore, permit the alternative submission of the equivalent information.

We have changed the biennial filing date from November 1 to May 31 for filings after that required in 1980 so as to improve the currency of the calendar year data in each filing.

§ 290.102(c) Filing of information at the time of application for a rate change.

The proposed rule included a requirement for gathering and filing information specified in Subparts B, C, D and E at the time of making an application or proposal for a rate increase. A number of commentators¹⁹ objected to this requirement on the grounds that it is either not required or prohibited by section 133 of PURPA. The Commission agrees that section 133 does not specifically require gathering and filing of cost information more frequently than every two years. However, the Commission clearly was given the authority in the first sentence of section 133(c) to require such additional filings if it deemed them appropriate. Considering the purposes of section 133, it may be reasonable to

¹² See comments made on behalf of Fitchburg Gas and Electric Co., *et al.* See also comments of Savannah Electric and Power Co., and of the American Public Power Association (APPA).

¹³ See, for example, comments made on behalf of the Electric Department of the City of Tallahassee, Florida.

¹⁴ The statement of managers in discussing Section 133 states: "The conferees intend that good information with regard to costs of providing service must be readily available on a timely basis to everyone concerned."

¹⁵ See, for example, the testimony of the Hawaiian Electric Company at the March 18, 1979, public hearing held in Seattle. See further discussion of such requests under Subpart F.

¹⁶ Meriwether Lewis Electric Cooperative, Electric Power Board of Chattanooga, and Tennessee Valley Public Power Association.

¹⁷ See, for example, comments of Puget Sound Power and Light Company.

¹⁸ See, for example, comments of the Detroit Edison Company and of the Florida Public Service Commission. Approximately twenty other utilities and commissions made this same suggestion.

¹⁹ See comments of the EEL, Part II, LeBoeuf, Lamb, Leiby and MacRae and others.

expect that the greatest need for the cost information by regulators and others will occur at the time of a proposal for a rate change. If a concurrent gathering and filing is not required, the question arises as to the usefulness, in the rate proceeding, of the most recent cost information filed pursuant to these rules. With regard to this, it seems clear that the needs most likely to be met by information filed under these rules will relate to consideration of rate structure rather than rate level. The currency of data is certainly an essential factor in addressing questions of rate level, but tends to be less important in considering rate structure, because the relationships among costs tend to persist over longer periods of time even though the overall level of costs may change significantly. A regular biennial filing requirement will permit utilities to schedule resources for this task on a regular basis, integrated with related reporting requirements, so as to avoid costly variations in data-related workload.

There is no doubt that the rate increase filing requirement as stated in the proposed rule would have added a significant reporting burden to the requirement that utilities make information filings every two years. On balance, the Commission concludes that it will not require a separate gathering and filing of the data specified in Subparts B, C, D and E at the time of a proposed rate increase. The purposes of section 133 will be served adequately by the biennial filing prescribed in the final rule. The Commission believes that the public access provisions of § 290.102 are sufficient so that no additional publication is necessary at the time of any rate increase application.

The issue of what information is needed at the time of application for a rate increase is one that the Commission will continue to review as a part of the ongoing effort to improve these rules.

§ 290.103 Form of the information.

The question of whether to use Form 1 or other existing forms as vehicles for submissions under this rule has previously been discussed. It is the Commission's intention to provide suitable standard forms for certain items of data required under this rule and to prescribe the general acceptable forms of presentation for the remainder. The rule as proposed has been retained and appears in § 290.102(b).

Additional Provisions

The Commission has added several additional provisions to this subpart:

§ 290.102(c) Consolidated reporting by certain wholesale suppliers.

§ 290.102(d) Extension for small utilities.

§ 290.104 Cost of compliance.

§ 290.105 Definitions.

Sections 290.102(c) and 290.102(d) have been discussed above. The question of proper accounting for the costs utilities incur in the gathering and filing of information under these rules was not addressed in the proposed rule. The Commission has considered this question and has determined that, since the information collected involves only retail service, the corresponding costs should be treated as an expense of regulation to be recovered through retail revenue. Accordingly, as indicated in § 290.104 of the final rule, these expenses will not be allowed by the Commission in establishing wholesale rates.

In comments on the proposed rule, a number of parties requested more complete definition of certain terms. Others comments pointed out the possible misapplication of the rule as proposed, particularly with respect to jurisdictional questions. Section 290.105 has been added to the rule and provides definitions for the following:

State Regulatory Authority. The definition of this term is taken directly from paragraphs 15, 16 and 17 in section 3 of PURPA.

Retail Regulatory Jurisdiction. This definition is included in response to comments²⁰ indicating that separate reporting for each State regulatory authority as defined above would have been overly burdensome because original jurisdiction is assigned to municipalities in the State of Texas by the laws of that State. The definition identifies those subdivisions of regulatory authority for which separate reporting will be required for certain items of information, particularly load data.

It was not intended in the proposed rule that separate reporting of load or other data would be required relative to operations in political subdivisions smaller than states. The definition implements this limitation on separate reporting.

Predominant Retail Regulatory Jurisdiction. Several comments²¹ suggested that a more complete definition was needed for this term, which is used in several sections of this part. For example, it is used in

²⁰ See, for example, the comments of the Public Utility Commission of Texas.

²¹ See the comments of the Public Service Company of Colorado.

§ 290.307(a)(1) to specify what method is to be used for the calculation of annual carrying charge rates.

Voltage Level. Both the proposed rule and the final rule require reporting of certain data by voltage level. A separate definition of this term has now been provided.²²

Typical Day Costs and Loads. This definition was originally included in Subpart D on Load Data, and is discussed below.

Subpart B—Accounting Cost Information

General

As proposed the rule required the submission of the following information in order to develop fully allocated cost of service studies: rate base information including plant, depreciation, prepayments, accumulated deferred income tax, materials and supplies, electric plant held for future use, nuclear fuel material and construction work in progress data; operating expense information including operation and maintenance expense and tax data; and rate of return information. This accounting cost information coupled with the load information is intended to permit the development of fully allocated accounting cost of service studies under a variety of methods currently in use.

About one third of the parties submitting comments on the proposed rule made specific comments on Subpart B. In general, the comments were of a technical nature. The only policy matter raised was the concern of a number of publicly owned utilities that the account structure (the FERC Uniform System of Accounts) on which Subpart B is based is not completely applicable to them, and that they should be permitted to report information based on their own account structure.²³ The data in Subpart B have been referenced to the FERC Accounts in order to achieve as much uniformity as possible in reporting. It is recognized that publicly owned systems do not keep their books in accordance with the FERC Uniform System of Accounts. The rule requires the public systems to follow FERC accounts only to the extent practicable.

§ 290.201 Rate base information.

Section 290.201 of the proposed rule required balances to be reported at the beginning and end of the reporting period together with the average of the thirteen monthly balances, if available.

²² See the comments submitted on behalf of Appalachian Power Co., et al.

²³ See the comments of Publicly Owned Systems.

Various comments²⁴ were received stating that the utilities do not close their books at the end of each month and that such a requirement would be costly and burdensome. Additional commentators²⁵ indicated that only end of reporting period data should be shown or that the data should be reported in a manner consistent with the rate base requirements of the State regulatory authority. The reporting of beginning and end of year balances appears to provide sufficient information to allow flexibility in preparing cost of service studies when coupled with a requirement that the average of the thirteen monthly balances be provided if required by the State regulatory authority. Accordingly, the regulations have been revised to require averaging of the thirteen monthly balances only if required by the State regulatory authority.

Section 290.201(a) of the proposed rule required plant data to be provided for various specified accounts and for any sub-accounts. Numerous comments were received questioning what was meant by sub-accounts. These comments indicated that a wide variety of sub-accounts are available for both plant accounts and operating and maintenance accounts. The comments²⁶ stated that the sub-accounts are utilized for such things as internal accounting cost controls and argued that the requirement to report such sub-accounts would be unduly burdensome without countervailing benefits unless specific sub-accounts were named for which information would be required. The requirement for sub-account data was originally proposed for added flexibility in preparing fully allocated cost of service studies. Such data may be of assistance in the functionalization, classification and allocation of costs, and the Commission originally intended to require detailed information in the event that a complete "raw data" approach was adopted. Since the final rule requires detailed calculated cost of service data in Subpart E, with appropriate supporting backup information, the amount of detailed "raw data" required in Subpart B is no longer as great. Submission of sub-account data is not now considered necessary in order to perform an independent cost of service review of the utility's analysis submitted in Subpart E, and the rule has been revised

accordingly by deleting the reference to sub-accounts.

Section 290.201 (a)(2), (a)(3) and (a)(4) of the proposed rule required: A functional breakdown of distribution plant into demand and customer related components and an explanation of the functional allocation used; a breakdown of demand related transmission or distribution plant assigned different service levels and an explanation of this allocation; and a breakdown of all plant directly assigned to customer classes. Various comments²⁷ indicated that such information is not directly available from accounting records and that such information must necessarily be calculated or estimated. Although Subpart B of the proposed rule was entitled "Accounting Cost Information," the Commission realizes that some of the requested data will have to be derived from data in the books of the reporting utilities. In developing fully allocated cost of service studies, some calculations and manipulation of accounting cost data are necessary, and, as numerous non-utility respondents indicated, these initial calculations are best done by the reporting utilities. At least one commentator suggested that distribution costs be broken down in even greater detail. Upon reconsideration, these particular data requirements are probably most logically placed in § 290.501(b) of Subpart E. Accordingly, the rule has been so revised, leaving it to the utility to develop support for the costs assigned to various classifications, functionalizations and voltage levels.

Section 290.201(b) and (c) of the proposed rule required depreciation data by plant account. Many commentators²⁸ correctly pointed out that the depreciation accounts are not kept in this manner. These comments state that such reporting would require a substantial revision of current accounting practices or would require the calculation of estimated amounts. Substantial modification of current accounting practices should not be necessary for the purpose of gathering sufficient information to develop fully allocated cost of service studies. The rule has been revised to require depreciation data to be shown by primary function as currently required under the FERC Uniform System of Accounts.

Section 290.201(d) of the proposed rule required certain cash working capital information. Although this section has

not been changed, it has been moved to § 290.501(b) of Subpart E because it is more logically related to the utility's method of developing its calculated accounting costs.

Section 290.210(e) of the proposed rule required various information with respect to construction work in progress for each project under construction. Several utilities stated that the data requirement was too extensive in that a great number of projects are under construction from time to time, many of which are relatively small. Various commentators²⁹ suggested that, if retained, the data be limited to major production and transmission projects. Others commented that the data be combined into functional groups or that dollar thresholds be established. These suggestions are incorporated in the final rule. The detailed information is required only for the major generation and transmission projects, whereas the remaining projects may be grouped by primary function and the account balances reported for each of the primary functions. Other comments suggested that CWIP be reported only if permitted to be included in rate base by the State regulatory authority. Since the data requirement as modified should be readily available, it has been retained to permit flexibility in the development of cost of service studies. The comments indicated that § 290.201(j) inadvertently omitted certain of the nuclear fuel accounts. This has been corrected in § 290.101(i) of the final rule.

§ 290.202 Operating Expense Information.

Section 290.202 (a)(2), (a)(3) and (a)(4) of the proposed rule required various functional and classification breakdowns of operating and maintenance expenses similar to the plant accounting data. Consistent with the treatment of those items indicated above, this data requirement has been transferred to Subpart E.

Section 290.202(a)(5) of the proposed rule required the utility to estimate the monthly fuel expense for each of the costing periods determined in § 290.308 in Subpart C. Various comments³⁰ indicated that such data are not readily available from accounting records. A few comments indicated that more extensive data are necessary for these estimations such as hourly average fuel expense for all hours of the year and the costs of purchased power. This data requirement is similar in some respects to that contained in § 290.303 of the final rule regarding marginal energy costs.

²⁴ See comments of the New York State Electric and Gas Co. and Central Hudson Gas and Electric Co.

²⁵ Comments of the Pennsylvania Power and Light Co.

²⁶ For example, comments of the Philadelphia Electric Co.

²⁷ For example, comments of Georgia Power Co. and Public Service Electric and Gas (NJ).

²⁸ For example, Pennsylvania Power and Light Co., and Arizona Public Service Co.

²⁹ For example, Iowa-Illinois Gas and Electric Co.

³⁰ For example, Houston Lighting and Power Co.

The section has been amended in a similar manner. The utility will be required to report estimated hourly average energy costs (including both generation and purchased power) per kilowatt-hour for total retail load and for all firm wholesale load for a typical weekday, a typical weekend day and the system peak day for each month of the reporting period. Although this will not require data for all hours of the year, it will permit the reconciliation to average monthly or annual energy costs and permit the development of time-of-day rates. Since estimated data are all that are required, substantial changes in the accounting for fuel expenses will not be required.

§ 290.203 Income and revenue related tax information.

Section 290.203 of the proposed rule required the utility to collect certain information to permit the calculation of income and sales taxes in costs of service. Various comments³¹ requested clarification as to what was intended by the term "sales" tax. The reference to "sales" has been deleted from the final rule and has been replaced with the term "revenue related." This makes clear that the information required concerns those taxes which are based on the utility's revenue and not those taxes paid for "sales" in connection with utility purchases of goods or services. Some respondents requested clarification as to whether gross receipts or franchise taxes should be included. Gross receipts are clearly revenue related. Franchise taxes should only be reported if they are computed based on revenue.

§ 290.204 Rate of return information.

Section 290.204 of the proposed rule required the reporting of rate of return information averaged for the reporting period. Some comments indicated that only end of year data should be used. Other comments stated that the data should be consistent with State regulatory authority requirements. One comment³² stated that this section should follow exactly the format provided in 18 CFR 35.13 (filing requirements for wholesale rate increase applications). There were also comments suggesting that a requirement should be added for reporting the estimated cost of common equity and the book value of common equity. Several publicly owned utilities

commented on the need for recognizing their financial structure in relation to this section. The rule has been revised to require both beginning and end of year balances. This will permit the use of end of year data or permit the calculation of average reporting year requirements, if appropriate, in the particular jurisdiction. The requirements of § 35.13 have not been used because those data relate to the Commission's wholesale jurisdiction. The publicly owned systems will be free to conform their reporting to their financial structure. Like other portions of the accounting cost section, it is recognized that the publicly owned systems will be required to conform to the specified FERC Uniform System of Accounts only to the extent practicable, recognizing their separate accounting conventions. The accounting cost section does not include the estimated cost of common equity because such information is more appropriately solicited in Subpart E as backup for the utility's calculated costs.

A new § 290.205 has been added to Subpart B, which parallels § 290.308 for marginal costs. It requires the utility to design and report costing periods which group together contiguous hours of similar accounting costs in an administratively feasible manner.

Some comments³³ requested additional information in order to permit more accurate cost of service analyses, such as allowance for funds used during construction or the operation of fuel adjustment clauses. Because these data items were substantially incorporated in the proposed rule, we do not believe that any further modification in the final rule is necessary.

Subpart C—Marginal Cost Information

One general objection raised against the collection of marginal cost information was that it "would lead to anti-competitive price differentials". One respondent³⁴ argued that our "proposed rule fails to consider the serious anti-competitive impact that could result from the piecemeal application of marginal cost based rates by electric utilities throughout the United States."

While we are sympathetic to concerns about "anti-competitive price differentials," we have difficulty following the line of reasoning presented. Section 133 requires the establishment of rules for the collection of cost information. We have responded by requiring both accounting and

marginal cost information. Neither section 133 nor any other part of PURPA gives us authority to establish retail rates. That authority lies firmly with State regulatory commissions and non-regulated utilities. Imposition of certain data requirements in these regulations does not require that the commissions or non-regulated utilities employ a specific methodology in setting retail rates.

Even if a State commission or non-regulated utility were to adopt time differentiated rates based on the marginal cost information produced by the section 133 regulations, it does not follow that the establishment of such rates will necessarily lead to "anti-competitive price differentials." Much would depend on the particular circumstances. Among the factors to be considered would be whether there is competition for the loads of customer groups subject to the different rates and whether the partial availability of time differentiated rates based on marginal costs was not cost justified. For example, it is quite possible that time differentiated marginal cost based rates may be initially offered only to one customer group because the metering costs of general implementation would be too high. In that situation, the partial implementation of these rates would probably be cost justified. None of these issues was addressed in the comments; nor do we see how they could be addressed without reference to the specific circumstances of a particular utility.

The concern expressed is more appropriately directed toward time differentiated rates in general, and not just at time differentiated rates based on marginal costs. As the respondent noted, it is "incorrect and misleading" to associate "time-of-use rates and rates based on marginal cost as being synonymous." Time of use rates may be based on either marginal or embedded costs. It appears that once marginal cost rates are adjusted for the total revenue constraints they may look very similar to time differentiated rates based on accounting costs. One would then need to consider, among other factors, whether the potential for "anti-competitive price differentials" resulted from the sequential availability of time of use rates rather than from the cost calculations that were used to produce such rates.

Six utilities³⁵ expressed concern that some of the information required by the

³¹ See comments of Tampa Electric Co. and Northeast Utilities.

³² See comments of Houston Lighting and Power Co., General Public Utilities Service Corp. and Alabama Power Co.

³³ See comments of U.S. Office of Consumer Affairs.

³⁴ See comments of EEI and Middle South Services Corp. at the New Orleans hearing.

³⁵ See comments of El Paso Electric Company, Gulf States Utilities Company and Joint Comment of Public Service Company of Oklahoma, Central Power and Light Company, Southwestern Electric Power Company and West Texas Utilities Company.

proposed rule might expose publicly held utilities to legal liability under the Federal securities statutes. Two concerns appear to be involved. The first is that some of the material elicited by the proposed rule may be more conjectural and more speculative than is normally permissible under the securities laws. The other is that the public release of information of this sort may engender special difficulties when public offerings registered under the Securities Act of 1933 are being made or are about to be made.

These concerns stem from the commentators' interpretations of certain past pronouncements by the Securities and Exchange Commission (SEC). However, it is hard to imagine that those pronouncements were ever intended to suggest that compliance with one Federal law would result in the violation of another. Moreover, the comments in question are flawed by their failure to take account of the Securities and Exchange Commission's present position with respect to projections and related topics.

That position is stated in *Guides for Disclosure of Projections of Future Economic Performance*, Securities Act Release No. 5992, Securities Exchange Act Release No. 15305 (November 7, 1978), which points out that filings of the type here involved are compatible with the securities laws but that an affected issuer must, of course, be always mindful of its "obligation to assure the material facts concerning its financial conditions are promptly and fully disclosed and that the information submitted does not become misleading by virtue of subsequent events."³⁶

The above-mentioned release also states that the SEC's prior position that section 5 of the Securities Act "would prevent issuers in registration from making projections or including them in their filings" * * * is superseded.

What has thus far been said does not mean that the Commission regards the commentators' concerns as frivolous. The securities statutes embody basic public policies, but the policies can easily be reconciled with those reflected in PURPA and in this regulation.

To effect that reconciliation, the Commission suggests that filings made with it and with the Securities and Exchange Commission make appropriate note of the limitations of the material filed in response to the requirements of Part 290.

The Commission notes that the SEC is in accord with this view. Attention is

directed to footnote 27 in that agency's aforementioned release of November 7, 1978 which reads:

In this regard, issuers may wish to consider the appropriateness of clearly distinguishing such information from any projections already made, or clearly indicating that the information should not be considered as a projection for any purpose other than consideration by the requesting authority. In this connection, issuers may also wish to consider the appropriateness of filing a report on form 8-K, 17 CFR 249.308, under item 5, in which the furnishing of this information could be disclosed and the purpose of its submission and nature of its use clarified.

§ 290.301 General instructions for reporting marginal cost information.

The proposed regulations required that estimates of future costs be reported in constant year dollars. Two private utilities³⁷ requested that the regulations provide the option of reporting future costs in either constant (base year) or in current (expenditure year) dollars. They contended that many utilities produce estimates of future operating and investment costs only in current year dollars and that it would be uneconomical for them to revise their planning and budgeting procedures just for purposes of section 133 reporting. We found their argument persuasive and, therefore, have adopted a modified version giving utilities the option of providing future costs in either base year or current year dollars. However, under either option, it will be necessary to indicate the inflation factors used in producing the cost estimates.

One utility³⁸ observed that the § 290.301(b) requirement that "[a]ll historic costs shall be as recorded" was inconsistent with § 290.304(b)(1) requiring that "extraordinary and non-recurring" expenses be adjusted to typical levels. In light of this comment, this section now requires that historic costs be reported as recorded "except when an adjustment is specifically required."

§ 290.302 Generation cost information.

The proposed regulations required that data on certain cost and operating characteristics be provided for each existing generating unit and for each generating unit that is expected to come on-line during the next ten years. At least five utilities³⁹ indicated that some of the data items were generally

available only on a plant basis. Several utilities⁴⁰ urged that the regulations be revised to allow for reporting at a more aggregated level. The data collected in paragraphs (a) and (b) are intended to be used principally in production-costing models. Such models can be used to produce estimates of marginal energy costs and marginal generation capacity costs. Our review of these models indicates that cost and operating data are generally not needed on individual units and that reasonably accurate estimates of system marginal costs can be produced from data relating to groups of units with similar operating characteristics. Therefore, revised regulations allow for the reporting of aggregated information on "groups of generating units with similar operating characteristics." It should be noted that the regulations do not require that the units comprising a group be located at the same site. Where similar units are located at the same site, it may be possible to report the required information on a plant basis.

Several privately owned utilities⁴¹ commented that the proposed regulations seemed to require that the data items listed in paragraphs (a) and (b) be supplied for each year of the ten years following the reporting period. It was argued that such a requirement was unnecessary and burdensome. We have tried to clarify this point in the final regulations. The data for existing generating units will be required only for the reporting period. The data for planned generating units will be required only for the first full year of commercial operation. In the case of existing units, § 290.302(c)(1) requires utilities to describe any changes expected at the time of filing, in engineering, regulatory, or economic conditions (apart from general inflation) that would significantly affect the values of any of the reported data items during the next five years.

More than 15 commentators, including utilities, State commissions and consumer groups,⁴² filed detailed

³⁶ See the comments of Pacific Power and Light Co., April 6, 1979, Southern California Edison Co., April 6, 1979, Pennsylvania Power and Light Co., April 6, 1979, Florida Power and Light Co., April 5, 1979, Texas Power and Light Co., April 5, 1979 and Kansas Gas and Electric Co., April 3, 1979.

³⁷ For example, see the comments of Florida Power and Light Co., April 5, 1979, Appalachian Power Co. et al., April 9, 1979, Southern California Edison, April 6, 1979 and the Massachusetts Electric Co., April 5, 1979.

³⁸ See the comments of the New England Regional Energy Project, April 10, 1979, Boston Edison Co., April 6, 1979, Ohio Edison Co., April 6, 1979, Arizona Public Service Corp., April 6, 1979, Southern California Edison Co., April 6, 1979, Pennsylvania Power and Light Co., April 6, 1979.

Footnotes continued on next page

³⁹ The quotation is from the portion of the release captioned "Projections Required by Regulatory Authorities".

³⁷ See the comments of Carolina Power and Light Co., April 6, 1979 and Gulf Power Co., April 5, 1979.

³⁸ Alabama Power.

³⁹ See the comments of Florida Power and Light Co., April 5, 1979, Texas Power and Light Co., April 5, 1979, General Public Utilities Service Co., April 6, 1979, Alabama Power Co., April 6, 1979, and Houston Light and Power Co., April 5, 1979.

technical comments on specific items in paragraphs (a) and (b). The comments pointed out that terms such as "normalized" and "typical operating conditions" were unclear. Some comments cited instances where the wording in the proposed regulation was inconsistent with definitions commonly used in the industry. In response to these comments, a number of technical changes have been made. These changes are described below.

Both a consulting firm and a consulting economist,⁴³ urged that the number of hours that a unit was connected to load be required as a data item. The consulting firm also suggested that the kilowatt-hour output of each unit be provided. We have adopted both suggestions because such data would provide useful information about a utility's dispatching procedures. We have also adopted the Department of Energy's recommendations for information on start-up costs and fuel use because such information allows for an independent analysis of unit dispatching. This is important because the actual or planned pattern of unit dispatching can significantly affect marginal cost calculations.

We have also added a requirement in § 290.302(c)(2) that the reporting utility provide a description of any economic, engineering or regulatory factors that interfered with merit order dispatching during the reporting period and that are likely to continue to do so in the future. This item was added because we saw evidence that the data items listed in paragraphs (a) and (b) were, by themselves, inadequate to allow someone outside the utility to simulate its operations for costing purposes.⁴⁴

One utility⁴⁵ recommended that we limit the data submission on hydroelectric units to peaking hydroelectric units since only peaking units would be relevant to the calculation of marginal capacity cost. We did not adopt this recommendation since it was not intended that the data required in paragraphs (a) and (b) would be used only for the calculations of marginal generation capacity costs. As noted earlier, the information in these

two paragraphs might also be used by intervenors to produce independent estimates of marginal energy costs. One commentator⁴⁶ urged that the fuel saving component of each planned addition be itemized. We did not adopt this suggestion because there was no indication that the value of this information exceeded the costs that would be incurred in collecting it.

The final regulations contain a new data requirement in § 290.302(e) which requires utilities to list "any publicly available reports, documents and forms containing information about the utility's planned additions to generating or transmission capacity which were supplied within the previous 18 months to regional reliability councils and to State or Federal regulatory agencies." This requirement was included so that intervenors and State commission staffs would be informed of other sources of information that could be useful in making marginal cost calculations.

Paragraph (e) of the proposed regulations requested cost information for a hypothetical minimum cost generating unit. Of the more than ten organizations⁴⁷ commenting on this paragraph, almost all indicated that they were uncertain as to what was being requested and, therefore, would have difficulty in complying with the requirement. In the final regulations we have clarified the meaning of this paragraph by using a modified version of suggested alternative language submitted by an economic consulting firm.⁴⁸ The suggested version would have required estimates of the net annual cost of expanding capacity for five different types of generating units. In our view, this requirement would be too burdensome. Instead, we have modified the suggestion to require that the net annual cost be estimated only for the generating facility or facilities most likely to be installed by the utility to meet increases in peak demand.

§ 290.303 Energy cost information.

Paragraph (a) of the proposed rules would have required utilities to report hourly marginal energy costs for the reporting year and for each of the next five years; in effect, more than 50,000

data items. Opposition to this requirement was virtually unanimous among the thirty seven utilities and State regulatory commissions commenting on this requirement. One State commission⁴⁹ recommended requiring data for typical days. Three utilities⁵⁰ made similar recommendations. Most of those who commented⁵¹ took the position that good estimates of marginal energy costs by costing period could be derived from a much smaller data base. We concur with that judgment. The regulations have been modified to require estimates of hourly marginal energy costs for certain typical days for the reporting period and for the five following years. The regulations require, in addition, that if a utility has calculated marginal energy costs or system lambdas for hours other than those reported for the typical days, this information be made available upon request. At the request of several commentators,⁵² the definition of marginal energy costs have been clarified.

Paragraph (c) of the proposed regulations allowed utilities to provide pool marginal energy costs as an alternative to specific company estimates of marginal energy costs. NARUC and three other commentators⁵³ all recommended that this information be required in addition to the company's own marginal energy costs. Two utilities⁵⁴ indicated that pool marginal energy costs may not always be readily available. We have adopted the NARUC recommendation. It seems clear to us that as more and more utilities move into centrally dispatched pools, the pool operating costs may become the relevant basis for determining company marginal costs. If a pool is centrally dispatched, it is not clear to us how the dispatching can take place in the absence of numbers that equal or approximate marginal energy costs.

Paragraph (f) of the proposed rule required the reporting utility to indicate "hours in which the marginal energy

⁴³ Texas Public Utilities Commission.

⁴⁴ Public Service of Colorado, Massachusetts Electric and Carolina Power and Light.

⁴⁵ See the comments of the Detroit Edison Co., April 5, 1979, Ohio Edison Co., April 6, 1979, Public Service Co. of New Mexico, April 10, 1979, Carolina Power and Light Co., April 6, 1979, Massachusetts Electric Co., April 5, 1979 and Pennsylvania Power and Light Co., April 6, 1979.

⁴⁶ This request was made by Appalachian Power Co., et al., April 9, 1979, El Paso Electric Co., April 6, 1979 and the Department of Energy (Economic Regulatory Administration), April 6, 1979.

⁴⁷ The New England Regional Energy Project, the Michigan Department of Commerce and the California Public Utilities Commission.

⁴⁸ Consolidated Edison and Baltimore Gas and Electric.

⁴⁹ Los Angeles Water and Power District.

⁵⁰ Among the commentators who suggested or requested clarification were the New England Regional Energy Project, April 10, 1979, Texas Public Utilities Commission, March 29, 1979, Ohio Edison Co., April 6, 1979, Los Angeles Power and Water District, April 9, 1979, California Public Utilities Commission, April 6, 1979, National Economic Research Associates (NERA), April 6, 1979, El Paso Electric Co., April 6, 1979, Arkansas Power and Light Co., April 6, 1979 and Utah Power and Light, April 6, 1979.

⁵¹ NERA.

Footnotes continued from last page
California Manufacturers Association, April 4, 1979, Texas Power and Light Co., April 5, 1979, California Public Utilities Commission, April 6, 1979, Ernst and Ernst, April 6, 1979, Department of Energy (Economic Regulatory Administration), April 6, 1979, Appalachian Power Co., et al., April 9, 1979, Kansas Gas and Electric Co., April 3, 1979, Eugene Coyle, et al., April 2, 1979 and National Retail Merchants Association, April 6, 1979.

⁴³ Ernst and Ernst and Eugene Coyle, respectively.

⁴⁴ See page 39 of the transcript of the Kansas City, Missouri hearing held March 15, 1979.

⁴⁵ Southern California Edison Company.

cost is likely to be determined by the price paid for purchased power * * *." Two utilities objected to this requirement because of the difficulty in estimating when such hours will occur. Recognizing that such estimates cannot be made with certainty we had included in paragraph (f) the phrase, "likely to be determined," to indicate that the estimates will necessarily be informed guesses. We see no reason to modify this paragraph in the final regulations.

One utility ⁵⁵ also urged that the energy adjustments required in paragraph (i) be expanded to specify how losses may vary by the location of the customer within the utility's service area. We view this suggestion as a possible refinement to energy loss calculations and note that there is nothing in our regulations to prevent a utility from making these additional calculations if it believes that such calculations are necessary for estimating marginal energy costs. The same comment applies to any other suggested refinements to data request. Our data requirements were designed to provide a core of information for marginal cost calculations. If a utility believes that better cost estimates can be produced using additional information or refinements to the required information we see nothing in our regulations that would preclude filing such information as supplementary material but see no necessity for further refinement in the regulations themselves.

§ 290.304 Transmission cost information.

Several major objections were raised to the proposed transmission cost information requirements. More than a dozen utilities ⁵⁶ objected to the requirement that transmission investment, both historic and prospective, be estimated separating out replacement investments. They indicated that in many instances it is difficult to determine if a particular installation constitutes a new or a replacement investment. Recognizing that some utilities would have difficulty with this calculation, we have revised the regulation to give utilities the option of reporting transmission investment with or without replacement investments.

A second objection concerned our requirements for estimates of transmission investments projected ten

years into the future. Many utilities ⁵⁷ indicated that their planning horizon for transmission investments typically is limited to five years and that any information given beyond five years would simply be a trended extrapolation. We have, therefore, revised our regulations to require only five years of projections. These five years of prospective data combined with the ten years of historic data should be sufficient to permit estimates of marginal transmission capacity costs.

A third major objection concerned the requirement that a system map be provided showing existing and proposed generation sites and transmission facilities. Several utilities ⁵⁸ objected that disclosure of such information would raise acquisition costs. If this is true, it would be an undesired and unintended consequence of our regulations. To minimize the likelihood of such a result, we have modified our regulations so that a utility need not show the specific location of a planned generating or transmission facility, if it believes that the disclosure of such information would raise acquisition costs.

A fourth objection concerned the requirement that project transmission operation and maintenance expenses be reported by account number. Several utilities pointed out that these projections are usually made by functional area and not by account number. Since in most instances the relevant marginal costs can be calculated from changes in aggregates, we have modified the regulations to allow utilities to report projected operating and maintenance expenses by totals rather than by account number.

A consulting economist ⁵⁹ recommended that certain additional items of information be collected: Additions to the transmission system by mile of line and size of line; separation of transmission investment into a demand and energy component; the calculation of payments received from other utilities for transmission services on a cents per kilowatt-hour basis; and the separating out of the AFUDC or CWIP components of transmission investment outlays. We have adopted two of these recommendations. Utilities will be required to report pole miles added at each principal transmission voltage level and to separate out

AFUDC. It is our view that this information will be useful in making adjustments to marginal transmission capacity cost calculations. The other recommendations were not accepted because they were either method specific or refinements that go beyond basic data needs.

§ 290.305 Distribution and customer cost information.

Several major objections were made to the proposed distribution and customer cost information requirements. These objections generally parallel those that were made with respect to the transmission cost requirements. More than ten utilities ⁶⁰ objected to the requirement that the replacement component of distribution plant investment be separated from overall distribution investment, both historically and prospectively. Most utilities pointed out that their records do not show such a separation and that this calculation would require a costly review of thousands of work orders. While information on the non-replacement component of distribution investment may be more useful for marginal costs, it is clearly not worth the cost burden that calculating it would impose on most utilities. We have, therefore, rewritten the regulations to give utilities the option of reporting annual distribution investment without separating out the replacement component.

A second objection related to the requirement that utilities provide five years of prospective information. Almost all utilities commented that the typical planning horizon for distribution investment and distribution operation and maintenance expenses is two to three years. Because it is our impression that projections beyond three years will simply represent extrapolations of existing trends, the regulations have been changed to require only three years of projected data. Furthermore, the projections on distribution operation and maintenance expenses have been modified to allow reporting by totals rather than by individual account number.

The item in this section which generated the most controversy was the request in paragraph (a)(3) for an estimate of a minimum distribution system. Some utilities expressed doubts as to whether such a calculation was relevant for a marginalist approach. One association ⁶¹ observed that the concept may be inappropriate for a system with

⁵⁵ El Paso Electric Co.

⁵⁶ See for example, the comments of the Boston Edison Co., April 6, 1979, Georgia Power Co., April 6, 1979, Appalachian Power Co. et al., April 9, 1979, and Mississippi Power Co., April 5, 1979.

⁵⁷ In particular, see the comments of Public Service Co. of Colorado, March 26, 1979, Georgia Power Co., April 6, 1979, Consolidated Edison Co., April 6, 1979, Wisconsin Power and Light, April 6, 1979 and NARUC, April 6, 1979.

⁵⁸ See, for example, the comments of Texas Power and Light.

⁵⁹ Eugene Coyle.

⁶⁰ For example, see the comments of Gulf Power Co., April 5, 1979, Alabama Power Co., April 6, 1979, Iowa-Illinois Gas and Electric Co., April 5, 1979 and Southwestern Power Co. et al., April 6, 1979.

⁶¹ APFA.

a substantial amount of underground equipment. Two commentators⁶² objected that the calculation was specific to a certain method and asserted that the Commission should not endorse that method by including this item as a data requirement. As we indicated in the preamble of the proposed regulations, we believe that Congress did not intend that the Commission adopt or endorse a particular costing method in promulgating regulations under section 133. However, we do not think our inclusion of this item in any way represented an endorsement of a particular approach. The Commission has dropped this item from the regulations on the basis that, at this time, it does not wish to impose this reporting burden on the utilities. The Commission re-emphasizes that this action in no way precludes a utility from performing this calculation if the utility believes that the minimum distribution system concept is relevant to its costing exercise.

Paragraph (a)(5) of the proposed regulations required that estimates be made of the current cost of connecting a new customer to the distribution system for each customer class. Three commentators, including the Department of Energy,⁶³ argued that these estimates would be too aggregated to be of much use. The regulations have now been modified to elicit somewhat more detailed information.

§ 290.306 Other cost information to be reported.

Several minor changes have been made in the final regulations as a result of comments received on this section. At the suggestion of one group of utilities,⁶⁴ paragraph (b) has been modified to require separation of sales expenses "that can be attributed to specific customers or customer classes. In paragraph (d), a transposition in account numbers has been corrected.

§ 290.307 Annual carrying charge rates.

The proposed regulation required that the carrying charge rate reflect only four types of cost: Depreciation, return, income and property-related taxes, and insurance. Comments indicated that certain cost components should be dropped and other cost components added. One utility⁶⁵ advised that the

regulations be written to provide more discretion to the reporting utilities. We have taken that advice and have given utilities considerable discretion regarding the calculation of carrying charge rates in the final regulation while requiring that they document in a clear manner the procedures and assumptions employed in deriving the carrying charge rates.

One commentator⁶⁶ inquired as to which agency is the "predominant regulatory authority" when a Federal and State commission are both involved. The term "predominant retail regulatory jurisdiction," which is the term now used in this section, excludes a regulatory body of the Federal government.

§ 290.308 Costing periods.

The proposed regulation required that costing periods be developed that could be used to implement "time differentiated pricing." One industrial consumer advocate⁶⁷ claimed that by including this phrase the Commission had overstepped its statutory mandate by moving from costing to ratemaking. We have removed the term from the final regulations. It should be recognized, however, that the periods used for costing will, in most instances, be the same as the periods used for pricing. At the suggestion of one economic consulting firm,⁶⁸ we have added a sentence indicating that costing periods should be designed so as to group together hours of similar cost. We view this as a reasonable general prescription. By including this language, we hope to indicate that seasonal or daily differentials may not be justified when the cost differentials are insignificant.

Subpart D—Load Data

General

Comments on Subpart D of the proposed regulations were plentiful and very constructive, and many changes were made in this subpart to reflect those comments. The changes made were primarily to ease the burden of load research on utilities.

Costs of Load Research

The Commission, from the outset, expressed concern with the costs of compliance with the regulations promulgated pursuant to section 133. The item of major concern was the expenses associated with load research. Consequently, meter manufacturers

were specifically invited to participate in the informal public conference held on December 4, 1978. The Commission was interested in obtaining information as to whether the manufacturers would be able to meet additional demand for meters in a time frame which would allow covered utilities to comply with a November 1980 filing date, the state of the art in technology, and the cost of meters and associated equipment. An informative presentation was provided by a representative of one manufacturer.⁶⁹

In addition, in the course of the four public hearings, the Commission solicited from various utility representatives, comment as to the cost of conducting load research to meet the requirements of the proposed regulation. The cost figures provided ranged from \$250,000⁶⁹ to \$4.5-\$6.5 million.⁷⁰ Therefore, we have undertaken to minimize these costs, while simultaneously attempting to adhere to the Congressionally prescribed requirements for load data.

The two major changes were made in § 290.403(a), concerning for which electric customer classes load data would be required, and in § 290.403(c), concerning the accuracy standard for sample metering.

Customer groups to be reported

Section 290.403(a) of the proposed rule required load data collection for "each customer class for which there is a separate rate". Several utilities⁷¹ commented that this requirement would require the collection of load data for too many rate classes. Conversely, several consumer groups⁷² urged the Commission to require a more extensive breakdown of load data by income and usage levels within rate classes.

The rule as revised in § 290.404 requires in paragraph (a) that utilities report load data on a best estimate basis in 1980 and in each subsequent reporting period for residential, commercial and industrial use classes and for any rate class to which 10 percent or more of the system's retail kilowatt-hour sales are

⁶³ See the Statement of Mr. William F. Dewira, Westinghouse Meter Division, Tr. pp. 64-91.

⁶⁴ See the written comments of Hawaiian Electric Company.

⁷⁰ See the written comments of Massachusetts Electric Company and Narragansett Electric Company.

⁷¹ See, for example, Kansas City Power and Light, testimony at the Kansas City, Missouri hearings, wherein it was said that 150 to 200 rate schedules would be subject to load collection under the proposed regulations.

⁷² See, for example, the filing by the National Consumer Law Center, Inc., Missouri Legal Aid and Prairie View Legal Services. See also, the comments of El Paso Electric.

⁶² The New England Regional Energy Project and Eugene Coyle.

⁶³ See also the comments of the New England Regional Energy Project and Louisiana Power and Light.

⁷¹ Appalachian Power Co., et al.

⁷² Wisconsin Electric Power.

⁶⁶ Comments of Public Service Company of Colorado.

⁶⁷ ELCON.

⁶⁸ NERA.

made for any month during the reporting period, other than a group composed in whole or in part of residential, commercial or industrial users. Because data on master metered buildings composed of customers in more than one major customer class would not be useful to the determination of the loads for a single major customer class, the final rule requires utilities to exclude the loads in master metered mixed use buildings from the estimates for major customer class loads.

Paragraph (d) of the final rule specifies certain end uses for which load data are proposed to be required and indicates that the list of end uses will not take effect until the Commission makes a determination either to implement the list as proposed or to modify it. Under paragraph (c), utilities having separate rates for all or some of the specified end uses on December 31, 1980, would be required to report load data for any such rates on a sample metered basis beginning in 1982. Utilities having several separate rates for a single specified end use would be permitted to combine for reporting purposes all rates charged for that single end use, as in the case of a utility that charges different rates to communities because of differences in customer charges or in the initial block.

Utilities that do not have a separate rate applicable to one of the specified end uses would be required to report load data for each of the specified end uses on a best estimate basis in 1982 and on a sample metered basis beginning in 1984, since some time must be given for the utility to survey its customers served under a more general rate and separate out for sampling purposes the specified end-use customers.

The end-use groups for which the Commission proposes to require sample metering are:

- (1) Residential space heating.
- (2) Residential water heating.
- (3) All electric residences.
- (4) Commercial space heating.
- (5) Commercial space cooling.
- (6) All electric office buildings.
- (7) Master metered multiple dwellings.
- (8) Agricultural or industrial uses of process heat.
- (9) Large (over 1,000 kilowatts) electric drive motors used in industry, such as in steel rolling mills.
- (10) Irrigation.

The Commission has tentatively selected these end-use categories for separate reporting on a sample metered basis because: They have daily and seasonal variations that might be unpredictable without the aid of load

research; they comprise a major portion of a system's on-peak loads; they represent uses frequently served under separate rates (and that presumably represent uses with distinct costs); or they cover the principal loads within each major retail customer class. Comments are specifically requested on whether the end uses identified satisfy these criteria sufficiently well to merit implementation, and, if not, for what other end uses separate reporting should be implemented. Recognizing that utilities must know as soon as possible what groups of end-use customers will require sample metering, the Commission, based on comments received on these categories, will determine by the end of August 1979, if the list of end-use categories to be metered should be implemented as proposed or should be modified in response to information supplied in the comments.

Where only best estimates are required either under paragraph (a) or under paragraph (c), utilities must base such estimates on any sample metering they may have conducted for all or a portion of the customer group.

The Commission has granted an extension in paragraph (e) of § 290.404 until January 1, 1985, for the gathering and reporting of load data on all customer groups not specified as major customer classes or end use categories in § 290.404, to the extent that such data are required to be collected under section 133. Section 290.404 is referenced in several other subparts of the rule specifying what cost calculations shall be made for specific customer groups. The Commission has also granted an extension in paragraph (e) until January 1, 1985, for the gathering and reporting of cost information for all customer groups not specified in § 290.404 and for which section 133 requires the collection of cost information.

The Commission believes that good cause exists to grant such extensions. The Congress was explicit in its mandate to the Commission in section 133. Section 133(a)(1) directs the Commission to collect information on costs of serving each electric consumer class, "including costs of serving different consumption patterns within such class * * *." The Commission interprets this statutory language to mean that cost information must be collected for subgroups of customers within a customer class if these subgroups have different consumption patterns, such as electric space heating within the broad residential class. In order to determine the costs of serving such consumption patterns, the utility

must collect load data regarding those subgroups.

Section 133(a)(2) directs the Commission to collect load data for each electric consumer class "for which there is a separate rate. * * *." We believe this means that load data are to be collected both for customers served under a separate, distinct rate schedule as well as for customers served under a distinct rate block within a rate schedule. These data could be used, presumably, to test the cost justification of separate and distinct retail rates and to disclose any cross-subsidies between rate schedules or rate blocks.

In granting the extension in paragraph (e), the Commission is attempting to balance the strict requirements of the statute with the problems inherent in meeting the statutory deadlines for collecting and reporting cost and load information.

The Commission has received many comments concerning the expenditures of time and money which will be necessary for conducting that load research required under section 133 and has been advised that it takes several years to initiate and complete such load research and to analyze load and cost data for reporting purposes. The comments assert that costs of meter equipment and of computer hardware and software, and costs of training personnel are high. We understand that new meter technology is being developed that will utilize solid state mechanisms and that will considerably reduce the expense of sample metering for load research. Because of the advent of this new technology, the Commission is reluctant to impose data requirements which may require heavy investments in existing load research meters that may soon be obsolete. On the other hand, new technology will reduce the costs of billing under time of day rates and make them more cost effective. Thus, it is important to begin to collect load data now as a guide to designing time of day rates for the near future. The Commission feels that the extension in § 290.404(e) represents the best accommodation between these conflicting realities and grants such extension for good cause shown. However, Congress contemplated that the Commission would review and revise its regulations as future conditions such as that rate reform contemplated by Title I of PURPA require. We intend to re-examine these extensions and will make such modifications as such future conditions may warrant.

The Commission considers that collection of sample load data for

customer groups served on time of day rates is not likely to carry out the purposes of section 133 and, accordingly, has exempted utilities from gathering and reporting such information. The Commission wishes to permit flexibility in the gathering of such information and will impose only cost reporting requirements for those customer groups.

The Commission has already provided an opportunity for comment on the issue of exemptions for customer groups served under time of day rates in accordance with the requirements of section 133(b) of PURPA. (See discussion of comments regarding § 290.404(g) of the proposed rule.) However, the Commission is now soliciting additional comments on this portion of the final rule and will determine, by the end of August 1979, whether to alter it.

As with all other data requirements in Subparts B, C, D and E, State regulatory authorities are not pre-exempted by this federal action from requiring other data with regard to providing electric service. Utilities also should consider whether they, on their own initiative, should gather more extensive information than is called for by the Commission at this time in order to justify the rates that they apply to different groups of consumers.

Accuracy standard

The second major change from the proposed rule concerns the accuracy standard used for conducting load research. Section 290.403(c) of the proposed rule established a standard of plus or minus ten percent at a ninety-five percent confidence level to be met for each hour of the sample period. Almost every respondent commented on this accuracy standard.⁷³ Critics indicated that it was too stringent because it would be applied to load data collection for every hour of the year and could be used as the basis for rejecting load data if the standard were not met. There were also objections to the confidence level. As proposed, we believe that the accuracy standard would have required heavy investments in recording meters and translating equipment.

Section 290.403(b) of the final rule makes the three following changes designed to ease the reporting burdens and maintain consistency with standard industry practice for conducting load research:

(1) The accuracy level is now a target to be achieved in determining sample size rather than a standard that could be used for the rejection of load data.

(2) The target applies only to measurement of loads at time of system and customer group peaks rather than for each hour.

(3) The accuracy level has been lowered to plus or minus ten percent at a ninety percent confidence level.

The final rule requires utilities to file a sampling plan along with the initial filing of best estimate load data. If the sampled load data do not reach the target level of accuracy in subsequent filings, utilities will be required to provide an explanation for the deficiency.

§ 290.401(a) Hourly load information.

The proposed rule specified that load data be reported as total sixty minute integrated demands for each hour of a twenty-four hour period. Several respondents⁷⁴ suggested that the data be reported on a fifteen minute or thirty minute integrated basis since these time intervals are generally used for load data collection. The final rule allows the utility the option to report load data on whatever basis it chooses, so long as the pool, system, and class loads are reported using the same integration interval. One comment⁷⁵ suggested that utilities be given the option of supplying these data on punched cards or in a computer printout. Since it is the Commission's intention at a later date to prescribe the form in which all of these data are to be reported, no change has been made in the proposed regulations on this particular point.

§ 290.401(b) Separate jurisdictional loads.

This section in the proposed rule required utilities to report customer class loads separately for each jurisdiction. Several respondents⁷⁶ indicated that the reporting should be done only on a state-wide jurisdictional basis. Since it was not the intention of the proposed rule to require separate data for small municipalities having original jurisdiction, such as those that exist in Texas and Ohio, this section was changed to make it clear that the

data are to be reported separately by state-wide retail regulatory jurisdictions.

Section 290.404(f) of the proposed rule provided an automatic waiver of the separate reporting requirement, with the consent of the State regulatory agency. Several comments⁷⁷ suggested that exemptions be made for separate jurisdictional reporting based on the amount of business done in the jurisdictions, the homogeneity of the classes in the jurisdictions, and the similarity of rates for the two or more jurisdictions.

Section 290.401(b) of the final rule is designed to ease the burden of separate jurisdictional reporting of customer group load data by treating monthly group load data differently from hourly group load data. Under paragraph (b)(2) hourly group load data specified in § 290.403(a)(4) are not to be reported separately by retail regulatory jurisdiction unless at least one of the retail regulatory jurisdictions or unless other parties request the separation. If the retail regulatory jurisdiction requests the separation, it is automatically required; if other parties request it, they must demonstrate that the benefits of the separate jurisdictional reporting outweigh the costs.

Under paragraph (b)(1) monthly load data specified in § 290.403(a)(1), (a)(2) and (a)(3), are required to be reported by separate retail regulatory jurisdiction unless all of the jurisdictions involved waive the separate reporting requirement. Opportunity for comment on the waiver request will be allowed prior to Commission action. Under paragraph (c) applications for the waiver or for the separate reporting of group load data are to be filed at least two years before the time the data would be required to allow sufficient time for Commission action on the application and to permit utilities required to report by separate jurisdictions time to gather the data. For the 1980 reporting, paragraph (d) permits utilities the option of reporting both the monthly and hourly class load data on either a system-wide or a separate jurisdictional basis.

§ 290.401(c) Master metering.

The proposed rule defined customers as meters and required separate reporting under § 290.406 for the number of customers served under master meters. Several utilities⁷⁸ indicated that identification of those customers served under master meters would create a

⁷⁴ See, for example, comments of Consolidated Edison of New York, New England Regional Energy Project, Public Service Company of New Hampshire, Eugene Coyle.

⁷⁵ General Public Utilities Service Corp.

⁷⁶ NARUC, the California Public Utilities Commission and several utilities commented on the jurisdictional reporting requirement. Particularly, the utilities in Texas and the State PUC and Attorney General pointed out that primary retail rate jurisdiction lies with municipalities in the State. See Subpart A for further discussion on this point.

⁷³ See, for example, the comments of the Load Research Committee of the Association of Edison Illuminating Companies.

⁷⁷ For example, General Public Utility Service Corp. and Pacific Power and Light Co.

⁷⁸ For example, Houston Lighting and Power, Public Service of Colorado.

tremendous burden since separate records are not kept for master metered customers. One comment⁷⁹ accurately pointed out that the proposed regulations required no separate load data for master metered customers. The final regulations retain the definition of customers as meters in § 290.406(a)(2), and retain the requirement to report separately the customers served under master meters but only if information as to the number of those customers is available. To the extent that master-metered multiple dwellings remain as a category for which load research is required, the number of these customers will be required to be reported.

§ 290.401(d) *Typical day loads.*

The proposed rule required that typical day loads for the system and individual classes be determined by averaging hourly loads for each hour of the week, day or weekend day in each month. One commentator⁸⁰ suggested that holidays be excluded from the data to avoid distortion. This suggestion was adopted in the final rules. Several other commentators⁸¹ indicated that the concept of typical day and average day loads needed further definition. The final regulations indicated that either the mean or mode of the hourly loads can be used in determining the typical hourly loads. This change should make it clear that the typical day loads are to be an arithmetic average of the measured loads, rather than an arbitrarily selected "typical day". In the final rules, this section has been moved to the definition section, § 290.105(e), since the typical day concept is used for cost calculations as well as load data reporting.

§ 290.402 *Load information for the total of all customer classes (system load information).*

Paragraph (a) of the proposed rule defines the kilowatt load on the system to be reported by utilities. Several comments⁸² suggested that adjustments be made to this requirement, particularly to correct for reciprocal supply arrangements between utilities or for wheeling loads. Since the definition would require that interchange power, as well as any temporary deliveries of emergency power be netted out, no further change has been made in the definition. Firm loads of the reporting utility would and should be included since system costs are affected by all

firm loads. Wheeling loads would not affect *net* generation, so no correction to the definition needs to be made for these loads.

§ 290.402(b) *Pool load information.*

In the proposed rule, this section required utilities that are members of a power pool to report load data for the pool as well as for the utility. Several comments suggested that this requirement be eliminated either because it served no purpose or because such information is already filed monthly.⁸³ The requirement has been retained because marginal costing may be based on pool bulk power facilities rather than on the system bulk power facilities, in which case, load data for the pool will be needed for determining costing periods. Although some historic data are reported on pools, the detail needed for costing, and thus required under these regulations, is not generally available historically.

The proposed rule allowed one utility to report pool load data for all of the other utilities in the pool. That provision has been deleted from the final rule and each utility will now be required to report the load data for its pool. This approach is consistent with the Commission's intent that each of these reports be self contained, and that parties using these data not be required to go elsewhere for the required information.

§ 290.402(c) *Historic peak loads.*

The proposed regulation required the annual system peak loads to be reported for each of the previous ten years for the system but not for power pools. Although, as one commentator pointed out,⁸⁴ this information is already reported in Form 1, the requirement to report is repeated here consistent with the policy of making reports under section 133 self-contained. Two comments⁸⁵ indicated that reporting should be done for winter and summer peaks separately. That suggestion has been incorporated into the final rule. One comment⁸⁶ suggested that reporting should be done for power pool as well as system peaks because some marginal costing methods use the growth in pool-wide peak demand rather than system peak demand. Although that is true, marginal generation costing methods tend to use projected rather than historic peaks loads. The projected peak loads on a pool basis are required by

§ 290.402(e). Although historic peak loads are used to normalize the marginal transmission cost data, marginal transmission costs are not calculated on a pool-wide basis.

§ 290.402(d) *Reporting period loads.*

This section indicates what load data are to be reported for the pool or system in the reporting period.

§ 290.402(d)(1) *Hourly loads*

In the proposed rule, this section required the reporting of hourly loads for each clock hour of each day. Several utilities⁸⁷ suggested that this section should be eliminated since only typical hourly loads as required in paragraph (d)(2) would be needed. Since paragraph (d)(2) is an alternative to (d)(1) and since a reporting utility has the option of supplying one or the other, both paragraphs have been retained in the final rule.

§ 290.402(d)(3) *Actual and weather normalized monthly peak loads.*

§ 290.402(d)(4) *Actual and weather normalized summer and winter peak loads.*

In the proposed rule these sections required the monthly reporting of pool or system peaks with a separate indication of the summer and winter peaks, and required both actual and weather normalized data to be reported. Many comments⁸⁸ indicated that no information should be required for weather normalized peaks because of unreliability of estimates, costs of obtaining the estimates, lack of use, and lack of a consensus regarding normalization methods. Other comments⁸⁹ pointed out that the requirements in paragraphs (d)(3) and (d)(4) were redundant.

The final regulations have been changed in two ways. First, the requirement for separate reporting of summer and winter peak loads has been eliminated since these data would be included in the monthly-peak reporting. Secondly, monthly peaks are now to be normalized for weather or for other factors affecting loads only if the reporting utility uses normalizing techniques for its own purposes.

⁷⁹ For example, Florida Power and Light and United Illuminating.

⁸⁰ For example, Consumer Power, Carolina Power and Light, Indiana Power and Light Company, APFA.

⁸¹ For example, Toledo Edison, Hawaiian Electric Company.

⁷⁹ Public Service Electric and Gas.

⁸⁰ Southern California Edison.

⁸¹ For example, the Department of Energy, Economic Regulatory Administration.

⁸² Texas Public Utility Commission and Department of Energy.

⁸³ United Illuminating and Pacific Power and Light.

⁸⁴ Michigan Public Service Commission.

⁸⁵ New England Regional Energy Project and Missouri Legal Aid.

⁸⁶ Department of Energy.

§ 290.402(d)(5) Maximum demand at primary and secondary distribution voltages.

This section in the proposed rule required utilities to provide information on the maximum demand on the distribution system at the primary and secondary voltage levels. Quite a few of the comments⁹⁰ indicated that requiring the collection of such data is inadvisable if not impossible because of the costs of extensive metering, the impossibility of measuring such data accurately, and the lack of necessity for gathering such information. Other comments⁹¹ criticized the vagueness of the regulation as written. The final regulations eliminate this reporting requirement, primarily because of the costs associated with measuring the maximum demands on the distribution system. It is the Commission's view that marginal distribution costs can be estimated without requiring the collection of these load data.

§ 290.402(e) Projected load information.

This section of the proposed rule specified projected pool or system load data to be supplied for each of the next ten years. Several general suggestions were made⁹² regarding projected load data: Changing the time period from ten years to five years or to the planning period used by the utility; and requiring such data only for the seasonal peak day hourly loads, seasonal average week day and weekend loads. In the final rule projected load data must be supplied for each of the next five years and for the tenth year.

One comment⁹³ suggested that this section require the utility to describe the process by which the forecasted load data are determined. Growth rates for kilowatt-hour sales, summer peak and winter peak load are required as part of the reporting; the Commission is reluctant to expand the requirement to require any additional, more detailed explanation of projection methodologies at this time.

§ 290.402(e)(1) Projected load duration curves.

The proposed rule required that utilities supply the annual projected load duration curves and the duration of the loads in hours at 100, 80, 60, 40 and 20 percent of the peak load. Several

comments⁹⁴ were received on this section requesting that it be either deleted or modified. Several comments⁹⁵ suggested that either load duration curves only, or hours of load only, or load curves only be required. The final rule requires reporting of both the load duration curve and the duration of load. Although an outside party could read the duration of load off the load duration curve, the reporting utility would have more accurate data than could be obtained by reading from the curves. One commentator⁹⁶ suggested that load duration curves are no longer used in the industry for capacity planning since the advent of modern digital computers and simulation programs. Although this may be true for some utilities, many small utilities reporting under these final regulations still rely on less sophisticated estimating techniques. These requirements are intended to be minimum reporting requirements; any reporting utility having more detailed or computerized projections of load and profiles is encouraged to file such information in satisfaction of this requirement.

Several comments⁹⁷ suggested that the duration of load in hours be expanded between 100 percent and 80 percent of the peak load, since it is important to know with some specificity what the variations are around the peak. In response to these comments, the final rule includes the requirement that utilities supply duration of load at 98, 95 and 90 percent of the peak load, as well as the percentages originally required in the proposed rule.

§ 290.402(e)(2) Growth rates for load duration curve.

This section of the proposed rule required reporting of the growth rates implied by the projected load duration curves specified in paragraph (e)(1) for total kilowatt hour sales, summer peak load and winter peak load. One comment⁹⁸ suggested that the Commission require a description of the reliability which the system planners use to project peak loads. Since any projections are done with varying degrees of reliability, it is not necessary to require such detailed information.

§ 290.402(e)(4) Projected maximum demand on the distribution system.

The proposed rule would have required utilities to project maximum demands on the distribution system at the primary and secondary voltage levels. Because § 290.402(d)(5) of the proposed rules has been eliminated, this section has also been eliminated. This change is consistent with the requests of several utilities⁹⁹ that this section be eliminated because such data are almost impossible to obtain.

§ 290.403 Load information for individual customer classes.

In addition to commenting on the number of customer classes for which load data should be collected, several commentators¹⁰⁰ suggested additional information which should be gathered for each customer group, however defined. That information included the sum by class of each customer's maximum individual demand during the year, during each month, and during the on peak period of each month. Commentators argued that this information could be used to compute diversity factors for the purposes of translating demand and costs into demand rates. The Commission has not adopted this suggestion since such data may be needed for pricing but are not needed for costing. If these data are required for determining retail rates, the utilities would be able to supply the raw information from which these sums could be calculated and the State regulatory authority would probably have the power to require these sums in individual cases. In conjunction with those changes discussed earlier on what customer groups are to be reported, the word "class" in this section has been changed to "group" when referring to customer categories for which load data are required. Under § 290.404 load data must be reported for major customer classes as well as certain end-use customers. The wording change in this section is intended to be a generic identification for both of these customer categories.

§ 290.403(a)(1) Class maximum demands.

The proposed rule required the utility to report the class maximum demand, in kilowatts noncoincident with the system peak. Several comments¹⁰¹

⁹⁰ For example, AEIC, Public Service Co. of New Hampshire.

⁹¹ For example, Michigan Public Service Commission, Northern States Power Co.

⁹² See, for example, the comments of Southern California Edison and Eugene Water and Electric Board.

⁹³ Department of Energy.

⁹⁴ For example, Michigan Public Service Commission, United Illuminating.

⁹⁵ For example United Illuminating Company of New Haven.

⁹⁶ Hawaiian Electric Co.

⁹⁷ For example, California Manufacturers Association, California Public Utilities Commission.

⁹⁸ California Public Utilities Commission.

⁹⁹ For example, Central Maine Power Co., United Illuminating, Texas Power and Light Co., Kansas Gas and Electric Co.

¹⁰⁰ For example, NERA, Department of Energy, ELCON.

¹⁰¹ Carolina Power and Light, Hawaiian Electric Co., Association of Edison Illuminating Companies (AEIC).

pointed out that the phrase "noncoincident with the system peak" would require reporting class loads for the next peak hour if those class loads were indeed co-incident with the peak. The final regulations require the maximum demand for the group without further elaboration; thus maximum demands, either coincident or noncoincident with the system peak would be reported.

§ 290.403(a)(2) Class contributions to jurisdictional peak.

The proposed regulations required the utility to report the class contribution to the monthly jurisdictional maximum demand. Several comments¹⁰² indicated that this requirement should be deleted because generation and transmission resources serve the entire system not just a particular retail jurisdiction. Although this comment is correct, group contributions to jurisdictional maximum demands may be used to separate costs between jurisdictions for the purposes of determining the group revenue requirements. Therefore, this requirement is retained in the final regulations.

§ 290.403(a)(4) Hourly class loads.

The proposed regulations would have required the utility to report hourly class loads for a typical week day, weekend day, the class peak day, the jurisdiction peak day and system peak day. Several comments¹⁰³ were received on this section, primarily concerning the definition of "typical" and the need for clarification. Since typical days are now defined in § 290.105(e), the only change that was made in this section of the final rule was to delete the requirement for reporting hourly class loads for the jurisdiction peak day. Under § 290.401(b)(2) a utility would not be required to report these hourly loads by separate jurisdictions unless the Commission approved an application for separate jurisdictional reporting. This change is discussed more completely under § 290.401(b) above.

§ 290.403(b) (1), (2) and (3) Use of estimated information.

This section in the proposed rule permitted utilities to report class load information through the use of estimation techniques that could be based on sample metering, except where load estimates with comparable accuracy could otherwise be made. The purpose of this section had been to make clear that sample metering, not

universal sampling, was required, except in those cases where estimates of loads could be made without metering. In the final regulations, this section has been eliminated. The final regulations require, on a best estimate basis, load data for major customer classes. Sample metering is required only for specified end uses. Estimates of loads are allowed as part of the "best estimate" of major class loads and need not be separately provided for further in the rules. An extension until 1985 has been provided for the collection and reporting of load data for rate classes not falling within the specified end-use categories or within the definition of major customer class. Thus estimates of loads for these groups are not longer needed. Paragraph (b)(3) of the proposed regulation had required a description of the sampling method used by the utility. This requirement is retained in § 290.403(c) of the final regulation.

§ 290.403(c) Accuracy standard.

In the final regulation, this section has been changed to 290.403(b). The substance of the changes has been discussed above.

§ 290.403(d) Load research conducted every 5 years.

The proposed rule allowed utilities to use historic test load data in reporting estimated load data for the current period. The historic test load data could be collected during any period as long as the data were no older than five years. Several utilities¹⁰⁴ commented that the regulation was beneficial because it allowed rotational metering for measuring loads. Other commentators, including one public utility commission,¹⁰⁵ criticized the regulation because, in encouraging rotational metering, it would have discouraged ongoing load research. Several consumer groups¹⁰⁶ objected to the regulation because load research as old as four to five years would be stale and would not reflect any customer response to a rate change that had taken place in the interim.

The Commission believes that rotational metering may serve a useful purpose, especially for smaller utilities that do not have the capability for purchasing meters for each customer group for which load data are required.

¹⁰⁴ For example, Seattle City Light, Alabama Power Co., El Paso Electric Company, Massachusetts Electric and Narragansett Electric Company.

¹⁰⁵ Missouri Public Service Commission, Kansas City Power and Light, Indiana Power and Light Company.

¹⁰⁶ For example, National Consumer Law Center, New England Regional Energy Project.

Therefore, the final regulation allows rotational metering for any utility with less than one billion annual kilowatt-hour retail sales. For these utilities, actual test data need not be gathered for any particular customer group any more frequently than once every five years. This means that for such utilities reporting in May 1982, group load data collected in any year over the period 1977 to 1981 could be used as the basis for 1981 load estimates. Similarly, for the 1984 filing, load data collected in any year from 1979 to 1983 could be used as the basis for the 1983 load estimates.

Several comments¹⁰⁷ indicated that the regulations improperly imposed the class load factor methodology for translating test load data into current estimated load data. The final regulations delete that specified methodology and leave the choice of estimating technique to the reporting utility.

§ 290.404 Certain exemptions from reporting load information by individual customer classes.

This section in the proposed rule provided five blanket exemptions and two applied-for exemptions from the requirements that load data be provided for "each customer class for which there is a separate rate." These exemptions were designed to ease the burden of sampling each and every rate class that a utility might have. Since the final rule requires that data be reported on a sample metered basis only for a limited number of specified end uses, many of the exemptions provided for in this section have been eliminated.

Other than the provision for use of borrowed data in 1980, § 290.405 of the final rules provides that the remaining exemptions in this section will now be allowed only after application under § 290.601. Other exemptions may also be requested under the procedures specified in § 290.601.

§ 290.404(a) Combined reporting of class load information.

The proposed rule allowed the utility to combine two classes for the purposes of reporting customer class load data so long as the load imposed by at least one of these classes was less than five percent of the system's daily or annual peak and so long as the two classes being combined were not both major retail classes. The purpose of this exemption was to eliminate the requirement for separate sample metering of non-major, small rate

¹⁰⁷ For example, Carolina Power and Light, AEIC.

¹⁰² For example, Southern California Edison Co.

¹⁰³ For example, Missouri Public Service Commission.

classes. Several commentators¹⁰⁸ noted that a utility could not determine which classes imposed loads of less than five percent until load research had been conducted and suggested that the limitation be expressed in terms of kilowatt-hours of consumption rather than demand. One comment¹⁰⁹ indicated that the exemption should not be extended to fast growing classes. Others suggested that the exemption either be further limited or eliminated. For instance, two comments¹¹⁰ suggested that combinations should only be permitted for classes with similar voltage levels and load pattern characteristics and that the exemption should not be a blanket exemption. The extension granted in § 290.404(e) of the final rule until 1985 for all customer groups not specified in § 290.404 (b) or (d) covers many of the groups which had been covered by the exemption in § 290.404(a) of the proposed rule. Absent a showing under Subpart F, the Commission has determined that information on the groups not covered by the extension should be reported. Thus the blanket exemption has been eliminated from the final rules.

§ 290.404(b) Exemption for hourly load information.

This exemption, included in the proposed regulations but eliminated in the final regulations, would have exempted utilities from reporting hourly class load data for any class combined under the proposed exemption in § 290.404(a). Again, since the final regulations grant an extension for reporting load data for many of these rate classes, this exemption would be meaningless if retained.

§ 290.404(c) (1) and (2) Provisions for exemption from accuracy standard.

§ 290.404(d) Support for borrowed information.

§ 290.404(e) Applicability of borrowed information.

In the proposed regulations, the exemption in § 290.404(c) from the accuracy standard applied if a particular customer class load could be determined from methods not dependent on direct measurement or sampling. Since the accuracy standard has been changed to an accuracy target, this exemption has been eliminated in the final rule.

The second portion of this blanket exemption allowed a utility to borrow load data from a similarly situated utility for purposes of determining its

own load data. Sections 290.404(d) and 290.404(e), described what support the utility would be required to supply for the borrowed load data and what adjustments the utility would have to make to the borrowed load data to insure its applicability to its own class loads. Several commentators¹¹¹ endorsed the concept of this blanket exemption. Others¹¹² indicated that borrowing data is not a viable alternative to gathering load data for a specific system. Several comments¹¹³ suggested that rigorous analysis of transferred data would be necessary prior to use of this exemption, and that the burden of evaluating comparability should be borne by the utilities using the data, not intervenors. Section 290.405(a) of the final regulation allows the use of borrowed load data only for the initial filing in November 1980, which is to be made on a best estimate basis. A utility may not use borrowed load data in any subsequent filing absent an exemption for use of borrowed load data granted pursuant to the procedures in § 290.601.

§ 290.404(f) Waiver of reporting requirement for retail jurisdictional loads.

The proposed regulations allowed retail jurisdictions to waive the requirement for separate jurisdictional reporting of class load data. Several comments¹¹⁴ suggested that granting of this blanket exemption not be made contingent on concurrence by the State regulatory authority or, in the alternative, that concurrence be required only if the total retail sales in the jurisdiction for the reporting year are less than 500 million kilowatt-hours or do not exceed five percent of the system's daily annual peak. One commentator¹¹⁵ suggested that those State regulatory authorities consenting to the waiver should be required to specify the allocations that would be used among jurisdictions for splitting the revenue requirements. Another commentator¹¹⁶ suggested that safeguards be included to assure an opportunity for interested parties to be heard before any waiver of jurisdictional reporting of load data was allowed. Since section 133 does not require separate jurisdictional reporting,

an exemption to the statute is not needed and this blanket exemption has been eliminated in the final regulations. Waivers to that separate jurisdictional reporting required by these final regulations will be permitted under those conditions specified in § 290.401(b), discussed above.

§ 290.404(g) Exemption based on extension of time.

The proposed regulations granted a one year exemption from filing hourly class load information if the utility applied for a rate increase during the one year extension period provided in § 290.405 of the proposed regulations. Since filing of load and cost data is not mandated in section 133 at the time of a rate increase and has not been required under the final rule, this exemption is unnecessary and has been eliminated in the final rules.

§ 290.404(h) No exemptions for major classes on time of use rates.

The proposed rule allowed no exemptions for any rate class served under a time of use rate. Almost all of the utilities¹¹⁷ commenting on this section felt that this exception to the general blanket exemptions was inadvisable. Some were concerned that it could present a disincentive to utilities to engage in time of use pricing. The final regulation eliminates this section of the proposed rule. It should be noted, however, that the Commission intends to further consider by the end of August, 1979, whether the utilities having customer groups served under time of day rates are exempted from collecting load data by sample metering. (See the general discussion at the beginning of this subpart.)

§ 290.404(i) Exemption if the customer class is to be changed.

The proposed regulation exempted utilities from separately reporting any rate class that was to be combined with another class of customers or was to be otherwise drastically altered. The single comment¹¹⁸ on this section suggested that it be eliminated because it removes the requirement that necessary data be gathered concerning similarity of load characteristics for the rate classes to be consolidated. Since the Commission has required in the final regulation that load information be collected for specified end uses, whether or not there is a separate rate, this exemption has been deleted.

¹⁰⁸ For example, Iowa Southern Utilities, NARUC, California Public Utilities Commission.

¹⁰⁹ Public Service Co. of Colorado.

¹¹⁰ ELCON and Eugene Coyle.

¹¹¹ For example, Public Service Co. of Colorado, City of Santa Clara, California, Toledo Edison Co.

¹¹² For example, El Paso Electric Co., Eugene Coyle, Carolina Power and Light Co., Indianapolis Power and Light Co.

¹¹³ For example, Kansas City Power and Light Co., Missouri Legal Aid.

¹¹⁴ For example, Wisconsin Power and Light Co., Public Service Co. of New Hampshire.

¹¹⁵ National Retail Manufacturers Association.

¹¹⁶ Department of Energy.

¹¹⁷ For example, Texas Electric Service Co., Consolidated Edison of New York.

¹¹⁸ Texas Public Utilities Commission.

§ 290.404(j) Exemption for joint load research.

The proposed regulations allowed any group of utilities intending to engage in joint load research to apply to the Commission for an exemption from the requirement that each utility report system and class load data separately. Several comments¹¹⁹ suggested that the Commission require evidence of comparability of class loads before granting this exemption. Other comments¹²⁰ suggested that the Commission conduct a major research study to determine load characteristics of retail loads that could be used by other utilities or establish joint regional committees to conduct joint load research. One commentator¹²¹ indicated that the exemption should apply to generation and transmission cooperatives and their member distribution rural electric cooperatives. Several comments¹²² were received suggesting that the TVA be permitted to undertake joint research for all of its distributors and to report such information in a consolidated report. (See the discussion concerning § 290.102(c).) This provision has been retained in § 290.405(b) of the final rule. As in the proposed rule, this provision is not a blanket exemption but must be applied for under § 290.601 on a case-by-case basis.

§ 290.405 Extension for reporting hourly load information by individual customer classes.

This section in the proposed rule provided for an automatic one year extension beyond November 1980 for the reporting of hourly class load data if the utility certified that it had not commenced a program for the collection of hourly class load data by means of sample metering and had not been ordered to collect such data by any other regulatory authority at the time PURPA was enacted. Several suggestions¹²³ were made changing the time frame from two years to five years to "a reasonable time". Several comments¹²⁴ suggested that the extension should apply even if the State regulatory authority had not ordered the utility to conduct load research; i.e., even if the utility had already begun to

conduct such research on its own. Other commentators¹²⁵ suggested that the term "commenced a program" was unclear. The extension has been eliminated from the final regulations since no new load research will be required in 1980 for reporting of the best estimate loads for the major customer classes.

§ 290.406 Other information to be reported.

This section required additional information to be reported on customer classes, loss factors, and on other items affecting load data collection.

Two comments¹²⁶ suggested that a new paragraph be added to this section to require submission of bill frequency data in order to permit development of block rates and to determine the effect of these rates on the distribution of revenue responsibilities by class, by tariff schedule and by individual customers or groups of customers within a tariff schedule. It is the Commission's view that these data would generally be available from the reporting utility in any rate design proceeding, and the suggestion has not been adopted in the final regulation.

§ 290.406(a) Assumptions used and description of weather normalization techniques.

The proposed regulations required the utility to describe the parameters used for weather normalization as reported under §§ 290.402 and 290.403. In the final regulations, weather normalization or normalization of loads for other factors is required only if the utility already makes those calculations for peak loads. If normalization techniques are used, a description and demonstration of the technique are required under § 290.402(d)(3) of the final regulations. Therefore, separate reporting of this information is not required as a general matter, and this paragraph has been eliminated.

§ 290.406(b) Information on individual customer classes.

Paragraph (b)(1) of the proposed regulations required utilities to provide information on energy sales for each month in the reporting period for each customer class for which load data were collected under § 290.403(a). One commentator¹²⁷ suggested that a new section be added requesting energy sales for given time periods and voltage levels so that average costs by time of use could be assigned. Since a

requirement has been added to Subpart B, Accounting Cost Information, for the utility to calculate average energy costs by time of use, collection of those data here would not be necessary, and the final rule has not been changed in this regard. Another commentator¹²⁸ suggested that the requirement include data for each of the previous nine years as well as for the reporting period. Since the load data by customer groups would only cover the reporting period, customer group information has similarly been limited to the reporting period. The data to be collected under this section refer to customer groups identified in §§ 290.404 (b) and (d). This section is now § 290.406(a).

§ 290.406(b)(2) Number of customers.

This section required reporting of the number of customers at the end of the reporting period. One commentator¹²⁹ suggested that both number of customers as well as monthly energy sales should be supplied by voltage level. Since loss factors for energy sales are required under § 290.406(b) of the final regulations and since the number of new customers by principal delivery voltages is required under § 290.406(a)(3) of the final regulations, the number of customers and sales by voltage level could be calculated and further reporting of the number of customers or energy sales by voltage level would be unnecessary. The number of customers is to be reported in § 290.406(a)(2) of the final regulations.

§ 290.406(b)(3) New customers by voltage level.

This section of the proposed rule required utilities to report the number of new customers by primary, secondary and transmission voltage levels for the reporting period and for each of the previous five years. Several commentators¹³⁰ indicated that information on new new customers could not be supplied since those data currently were unavailable, that the burden of obtaining them would be onerous, and that, especially for historical information, the number of new customers would be practically impossible to reconstruct. The final regulations have been changed to reflect these comments and to require the reporting of the number of new customers only if available. Net change in customers is required under § 290.406(a)(3) of the final regulations if

¹¹⁹ For example, National Retail Manufacturers Association, Department of Energy.

¹²⁰ For example, Publicly Owned Systems, National Rural Electric Cooperative Association.

¹²¹ Rural Electric Administration.

¹²² For example, Electric Power Board of Chattanooga, Tennessee Valley Public Power Association.

¹²³ For example, Public Service Company of Oklahoma, Iowa Southern Utilities Co.

¹²⁴ For example, Texas Power and Light Co.

¹²⁵ For example, Kansas Gas and Electric Co.

¹²⁶ Department of Energy and Eugene Coyle.

¹²⁷ ELCON.

¹²⁸ Ernst and Ernst.

¹²⁹ ELCON.

¹³⁰ For example, City Public Service Board of San Antonio, Texas and United Illuminating.

data on new customers are not available.

§ 290.406(c) Loss factors.

In the proposed regulations, this section required the utility to report the estimated loss factors both for energy and demand resulting from the transmission of electricity to principal delivery voltage levels. Several comments¹³¹ indicated that the regulation was too burdensome. Nevertheless, the requirement is retained in the final regulations since these loss factors may be estimated by the reporting utility and do not have to attain a level of accuracy that would require metering at various points on the transmission and distribution systems.

§ 290.406(d) Effective date of rate changes.

In the proposed regulations, this section required the utility to report the effective date of a rate change and the approximate date on which bills were first received under the new rate. A similar requirement was imposed if an automatic adjustment clause resulted in a rate adjustment of more than ten percent of the previous month's rate. Several commentators¹³² indicated they have no information on when bills were received because they bill cyclically. Others indicated that the requirement regarding automatic adjustment clauses was irrelevant. Although it would be useful for parties using the load data to have some information concerning price changes during the period in which load data were being collected, this information can be obtained by other means and the provision has been deleted from the final regulations.

§ 290.406(e) Shifts on and off daylight saving time.

This section required that utilities report the hour, day and month of shifts on and off daylight saving time and the time zones in which the retail loads are located. No comments were received on this section.¹³³ The final regulations retain the requirement as § 290.406(c).

Subpart E—Calculated Costs

This subpart required utilities to calculate both accounting costs and marginal costs by costing period, customer class, and voltage level in summary tables similar to those included in the regulation. The proposed rule required that such tables be

completed for each jurisdiction in which the utility operated unless the utility could show that the jurisdictional cost variation was not significant. If a method for calculating either marginal or accounting costs has been specified by State law or the State regulatory authority, the regulations required that the calculation method used by the utility be consistent with that method. The regulations also required that the reporting utility describe the method used for the calculations and provide a copy of any cost study upon which the calculations in the table were based. As an alternative to completing the tables, the proposed rule provided that the utility may provide a recent cost of service study (fully allocated and marginal) provided that such study included all the information specified in the tables and in Subparts B and C, respectively.

§ 290.501 Accounting cost calculations.

The alternative for providing a cost of service study has been eliminated from paragraph (d) of both § 290.501 and § 290.502 of the final rule. Provisions for alternate submissions of information are now contained in § 290.103(c) of the final rule. The only major change in § 290.501 has been the inclusion in paragraph (b) of accounting cost requirements previously contained in Subpart B.

§ 290.502 Marginal cost calculations.

The proposed regulations required utilities to estimate the marginal costs of providing service by costing period, customer class and voltage level for each State jurisdiction in which the utility operated, unless it could be shown that the jurisdictional variation was not significant. One utility¹³⁴ urged us to allow for the reporting of costs on a system wide basis, without a prior showing that jurisdictional variation was insignificant. One commentator¹³⁵ concurred, arguing that the regulation incorrectly presumed that marginal costs will typically vary by jurisdiction and observing that, "[t]he real economic (marginal) costs of providing service are incurred at the system (or the pool) level and are the same at the margin for all jurisdictions at the same point in time. What will vary among jurisdictions is the allowed rate base, expenses and rate of return, thus leading to differences in total revenue constraints." We have reviewed a number of marginal cost studies and found that jurisdictional boundaries were generally deemed irrelevant for the calculation of marginal

costs. Therefore, the regulations have been changed to require the calculation of marginal costs for the "system as a whole".

One commentator¹³⁶ recommended that Table 2 should also include an estimate of the total amount of revenue that would be generated if the calculated cost components were implemented as billing determinants. We did not adopt this proposal for two reasons. First, it might lead to the false impression that marginal costs can be directly translated into time differentiated rates. We think it is clear that requiring marginal cost calculations does not necessarily imply that prices should be equivalent to marginal cost. A second consideration is that the adoption of this recommendation would extend the regulations unnecessarily into the sphere of ratemaking whereas the regulations should more properly focus on cost data. We recognize that calculations such as those proposed will eventually have to be performed but we do not think such calculations should be required under the regulations implementing section 133.

NARUC and several other commentators¹³⁶ observed that the illustration table conveyed the impression that "off-peak" hours could not carry any marginal capacity costs. This was an oversight on our part. Table 2 has been revised to show that off-peak hours do have the potential for carrying some capacity costs.

Subpart F—Exemptions and Extensions

§ 290.601 Exemptions.

The proposed rule required that utilities submit exemption applications one year prior to the time the filing is required. The Commission deemed this period necessary for allowing time for notice, comment, analysis, and Commission action but now feels that an additional six months lead time is required if utilities denied an exemption are to have adequate time to supply the necessary information. It should be clarified that a utility need submit only one application for each filing year for which it seeks a partial or total exemption.

The proposed rule also required that utilities seek review of such applications by State regulatory authorities and permitted State regulatory authorities to apply for exemptions for utilities under their jurisdiction. NARUC suggested an alternative to the proposed procedure

¹³¹ For example, Public Service Co. of Colorado, Puerto Rico Water Resources Authority.

¹³² For example, Louisiana Power and Light Co., Northern State Power Co.

¹³³ In this regard, this section is unique.

¹³⁴ Houston Power and Light Co.

¹³⁵ Department of Energy.

¹³⁶ EEI.

¹³⁶ See, for example, comments of Massachusetts Electric Co., Wisconsin Electric Power Co.

that would involve a compliance plan to be developed by utilities and approved by State regulatory authorities prior to its submission to the Commission for approval.¹³⁷ The Commission has considered this suggestion carefully. Although the final rule does not explicitly include this suggestion, the State regulatory authority will have an opportunity to review any request for exemption and to comment on it to the Commission. The final rule contains a specific provision requiring applications for exemption to be filed with this Commission and with the State regulatory authority no less than eighteen months prior to the time the information would otherwise be required to be filed. A State regulatory agency may, on its own authority, require a utility to provide the application for exemption to it at an earlier time than that required in the regulation. Also a State regulatory authority may, under State law, continue to require information to be filed with it even though the Commission grants an exemption.

There were several comments suggesting that authority to grant exemptions to the filing requirements be delegated to State regulatory authorities.¹³⁸ We do not believe that the statute gives the Commission authority to make such a delegation. However, the various State regulatory agencies can provide a very important contribution by evaluating applications for exemptions. The rule acknowledges this function by requiring utilities to submit applications for review at the State level. Through this requirement we intend to place principal reliance for such evaluation on the State regulatory authorities.

We have amplified on the specific information necessary to support applications for exemption. We believe this expansion is an improvement on the proposed rule in that it makes certain distinctions among basis for exemptions, and indicates the nature of the information that the Commission will require in reviewing each type of exemption.

A large number of small utilities submitted comments that were really requests for exemption. These requests were based either on the size of the utility or on the utility's receiving all of its power through purchase from another utility.¹³⁹ The Commission considers

these requests to be premature and has not considered their merits relevant to each applicant. If these utilities seek exemptions from provisions of the final rule, they must file new applications in accord with the requirements of the final rule. It should be noted that a number of the utilities that requested exemption on the basis of size will qualify for the special extension for small utilities provided in § 290.102(d) of the final rule.

Both the Department of Agriculture, Rural Electrification Administration (REA), and the National Rural Electric Cooperative Association suggested that specific exemptions be established for REA borrowers because these cooperative utilities already file substantial cost information with REA. The Commission finds that the cost information required under this rule is substantially different from that filed with REA by its borrowers. Therefore, the utilities' compliance with REA requirements is not an adequate substitute for filing the cost information required here. However, there may be other reasons for exempting certain of the cooperative utilities from the requirements of these regulations which will be considered upon application pursuant to the exemption provisions of the final rule. Meanwhile, many of these cooperatives will qualify for the special extension provided in § 290.102(d).

§ 290.602 Extensions.

The proposed rule provided an application procedure for extensions. No substantial comments were received on this section distinct from those concerning the exemption provisions which have already been discussed. The final rule includes changes in this section only to the extent necessary to parallel changes made in § 290.601 governing exemptions. In granting extensions either through the mechanism established in this section or in such blanket extensions as are embodied in the final rule, the Commission intends that a utility not be required to file at any later time the information which it would otherwise have been required to report during the extension period. The Commission's extension authority under section 133 is limited by section 133(b)(2) to extensions of the initial two year period following the date of enactment.

Subpart G—Enforcement

§ 290.701 Enforcement provisions.

This section states that any person who violates the requirements of Part

of the City of Wilson, North Carolina, Department of Utilities, are representative.

290 shall be subject to a civil penalty of not more than \$2,500 for each violation and that any person who willfully violates those requirements shall be fined not more than \$5,000 for each violation. This section corresponds to the enforcement provisions in section 12 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA).

Several comments¹⁴⁰ indicated that all sanctions should be limited to willful violations. Two of these commentators¹⁴¹ indicated that sanctions should not apply to *de minimis* violations. Section 133(d) requires that any violation of section 133 of PURPA be treated as a violation of a provision of ESECA, enforceable under section 12 of that Act. The regulations as promulgated in proposed form adhere to this statutory mandate and will not be amended. In enforcing the requirements of Part 290, the Commission will invoke such sanctions as it deems appropriate.

Written Comments

Although these regulations are being issued in final form, the Commission has specifically requested comments on §§ 290.404(d) and 290.404(f). The substantive provisions of these sections will not become effective absent further determination by the Commission. The Commission intends to act in this regard by the end of August, 1979.

Interested parties are invited to submit written comments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Comments should reference Docket No. RM79-6 on the outside of the envelope and on all documents submitted to the Commission.

Fifteen (15) copies should be submitted. All comments and related information received by the Commission before July 15, 1979, will be retained and considered by the Commission prior to any further action on these final regulations.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, Energy Supply and Environmental Coordination Act 15 U.S.C. 791 *et seq.*, Federal Power Act, as amended 16 U.S.C. 792 *et seq.*, Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 FR 46267).

In consideration of the foregoing, the Commission amends Chapter I of Title 18, Code of Federal Regulations, as set forth below, effective July 15, 1979.

¹³⁷ See comments of EEL, Southern California Edison Co., Pennsylvania Power and Light, Houston Lighting and Power Company, and Fitchburg Gas and Electric, *et al.*

¹⁴¹ See comments of EEI and Pennsylvania Power and Light Co.

¹³⁷ See also the comments of the Texas Public Utility Commission and the Michigan Public Service Commission.

¹³⁸ See the comments of Hawaiian Electric Company and Texas Electric Service Company.

¹³⁹ The comments filed on behalf of the Electric Department of the City of Tallahassee, Florida, and

By the Commission.

Kenneth F. Plumb,
Secretary.

1. Chapter I of Title 18 is amended by adding new Subchapter K, Part 290 to read as follows:

SUBCHAPTER K—REGULATIONS UNDER THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

PART 290—COLLECTION OF COST OF SERVICE INFORMATION UNDER SECTION 133 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

Subpart A—Coverage, compliance and definitions

Sec.

- 290.101 Coverage.
- 290.102 Compliance.
- 290.103 Time of filing and reporting period.
- 290.104 Costs of compliance.
- 290.105 Definitions.

Subpart B—Accounting cost information

- 290.201 Rate base information.
- 290.202 Operating expense information.
- 290.203 Income and revenue related tax information.
- 290.204 Rate of return information.
- 290.205 Costing period.

Subpart C—Marginal cost information

- 290.301 General instructions for reporting marginal cost information.
- 290.302 Generation cost information.
- 290.303 Energy cost information.
- 290.304 Transmission cost information.
- 290.305 Distribution and customer cost information.
- 290.306 Other cost information.
- 290.307 Annual carrying charge rates.
- 290.308 Costing periods.

Subpart D—Load data

- 290.401 General instructions for reporting load data.
- 290.402 Load data for the total of all customers (system and pool load data).
- 290.403 Load data for certain customer groups.
- 290.404 Customer groups to be reported.
- 290.405 Certain exemptions from reporting requirements.
- 290.406 Other information.

Subpart E—Calculated costs

- 290.501 Accounting cost calculations.
- 290.502 Marginal cost calculations.

Subpart F—Exemptions and extensions

- 290.601 Exemptions.
- 290.602 Extensions.

Subpart G—Enforcement

- 290.701 Enforcement provisions.

Authority: Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117 (16 U.S.C. 2601 et seq.).

Subpart A—Coverage, Compliance and Definitions

§ 290.101 Coverage.

This part shall apply to each electric utility, in any calendar year, if the total sales of electric energy by such utility for purposes other than resale exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

§ 290.102 Compliance.

Each utility covered under this part shall gather and report information specified in Subparts B, C, D and E of this part as follows:

(a) *Information gathering and filing.* Each electric utility shall gather and report such information in accordance with § 290.103 and shall file an original and one copy of the information with the Federal Energy Regulatory Commission (Commission) and an additional copy of the information with any State regulatory authority that has ratemaking authority for such utility. The utility shall retain additional copies of such information for a period of 5 years from the date of filing with the Commission, shall make copies of such information available for public inspection at the principal offices of the utility and shall provide copies to the public at the cost of reproduction.

(b) *Form of the information.* Such information shall be submitted on suitable standard forms prescribed by the Commission or in any form otherwise determined by the Commission. With regard to specific items of cost information, if an account number from the FERC¹ Uniform System of Accounts is specified in Subparts B and C of this part, public utilities under the Federal Power Act shall file in accordance with the specified accounts. Any utility covered by section 133 of the Public Utility Regulatory Policies Act (PURPA) but not required to keep its books by the FERC Uniform System of Accounts may provide this information in accordance with the system of accounts presently employed, so long as all required individual items of information are fully defined and expressed in the same degree of detail as that required in the FERC Uniform System of Accounts.

(c) *Consolidated reporting by certain wholesale suppliers.* Consolidated reporting of such information shall be permitted as follows:

(1) Any electric power supplier qualifying under paragraph (c)(4) of this

¹ FERC accounts refer to FPC accounts so numbered.

section may file a consolidated system report for the integrated system as a whole in lieu of individual reports for itself and its distributors which would otherwise be required under this part, if the distributors agree in writing to participate in the consolidated reporting and such written agreement is filed with the Commission at least 1 year prior to the date that such information is required to be reported. Where appropriate, information such as master metering practices and sales and property taxes shall be reported separately for each distributor.

(2) The electric power supplier and each distributor shall retain copies of such consolidated report for a period of 5 years from the date of filing with the Commission, shall make copies of such filing available for public inspection at its principal offices and shall provide copies to the public at the cost of reproduction.

(3) Any exemption or extension granted under Subpart F of this part to such electric power supplier shall be deemed to apply to all utilities which are a part of the integrated system and which are subject to reporting requirements under this part.

(4) In order to qualify for the consolidated reporting provisions of this section an electric power supplier must:

(i) Be a sole-source wholesale supplier to an electrically integrated system of distributors, some or all of which are also utilities subject to the reporting requirements of this part.

(ii) Have a direct role in establishing the specific resale rates charged by such distributors.

(d) *Extension for small utilities.* Each utility covered under § 290.101 but having total sales of electric energy for purposes other than resale of less than 1 billion kilowatt-hours in each of the calendar years 1976, 1977, and 1978 is granted an extension for the November 1, 1980 filing and shall not be required to make a filing pursuant to paragraph (a) of this section until May 31, 1982.

§ 290.103 Time of filing and reporting period.

Each electric utility shall gather and report information specified in Subparts B, C, D and E of this part as follows:

(a) *Biennial filing.* Information required under § 290.102 shall be filed biennially in even-numbered years beginning in 1980. The filing in 1980 shall be made on or before November 1 of that year. Filings in 1982 and in each subsequent filing year shall be made on or before May 31 of that year.

(b) *Reporting period.* Except as specified in paragraph (c) of this section,

the reporting period covered by the information shall be the calendar year immediately preceding the filing year. Information for previous years and projected information for future years, as required in Subparts C, D and E of this part, shall be reported on a calendar year basis.

(c) *Alternate reporting period.* Use of an alternate reporting period shall be permitted as follows:

(1) Except as provided in paragraph (c)(2) of this section, if a utility has gathered all of the information specified in Subparts B, C, D, and E of this part and has filed such information with its State regulatory authority in connection with a rate proceeding, the utility may file such information with the Commission in fulfillment of the filing requirements of paragraph (a) of this section if the reporting period covered by the information is a 12 month period the end date of which does not precede January 1 of the filing year by more than 6 months.

(2) If the information gathered and filed with the State regulatory authority is incomplete with respect to any of the specifications of Subparts B, C, D, and E of this part, the utility shall not be permitted to file under this paragraph unless it files the additional information specified in such subparts using the same reporting period as specified under paragraph (c)(1) of this section.

§ 290.104 Costs of compliance.

The cost of complying with the reporting requirements of this part shall not be allowed by the Commission in establishing rates for the sale of electric energy at wholesale under Part II of the Federal Power Act.

§ 290.105 Definitions.

The following definitions shall apply to this part:

(a) *State regulatory authority.* State regulatory authority is defined as any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility (other than such State agency) and, in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority. The term State agency means a State, political subdivision thereof, and any agency or instrumentality of either. The term State means a State, the District of Columbia and Puerto Rico.

(b) *Retail regulatory jurisdiction.* Retail regulatory jurisdiction is defined as a jurisdiction or authority with jurisdiction not less than state-wide in area.

(c) *Predominant retail regulatory jurisdiction.* Predominant retail regulatory jurisdiction is defined as the retail regulatory jurisdiction in which the utility has its largest amount of total retail sales of electric energy, measured in dollars of revenue.

(d) *Voltage level.* Voltage level is defined as any of the several ranges of nominal voltage used on a given utility system for transmission and distribution of electric power, the levels to be separately identified to the extent necessary to account for significant differences in such cost factors as investment and losses attributable to providing service at the different levels. For most utilities, the levels of "transmission voltage," "primary distribution voltage," and "secondary distribution voltage" will provide adequate load and cost differentiation.

(e) *Typical day costs and loads.* For historic or reporting period information, typical day costs and loads shall be reported as the mean or mode of the hourly costs and loads for each hour for each weekday or weekend day in each month. For projected information, the typical day shall be any day in the month which the utility believes is representative of cost incurrence. Holidays shall be excluded from weekday determinations and the utility shall specify whether the mean or mode is reported.

Subpart B—Accounting Cost Information

§ 290.201 Rate base information

Except as otherwise specified in this section, the utility shall report the balances at the beginning and end of the reporting period (and, if required by the retail regulatory jurisdiction, the average of the 13 monthly balances) for the following:

(a) *Plant accounts.* The balances in each account, by account (FERC Accounts 301 through 399).

(b) *Depreciation reserve.* The depreciation reserve (FERC Account 108) associated with each primary function; i.e., steam production, nuclear production, hydroelectric production—conventional, hydroelectric production—pumped storage, other production, transmission, distribution, general and common—electric.

(c) *Depreciation expense.* The depreciation expense (FERC Account 403) associated with each primary function; i.e., steam production, nuclear production, hydroelectric production—conventional, hydroelectric production—pumped storage, other

production, transmission, distribution, general and common—electric.

(d) *Construction work in progress.* For construction work in progress:

(1) For each generation and transmission project under construction, which the utility considers major, the end of period account balance in FERC Account 107 and the following:

(i) A description of plant including appropriate functionalization; i.e., production, transmission, distribution, general, common, and other.

(ii) The starting construction date.

(iii) The expected completion date and estimated cost as of the in-service date.

(2) For the remaining projects and construction, the end of period account balance in FERC Account 107, grouped by primary function.

(e) *Prepayments.* A breakdown of the components of all prepayments (FERC Account 165).

(f) *Accumulated deferred income tax.* The amount of accumulated deferred income taxes, by account (FERC Accounts 281, 282 and 283).

(g) *Materials and supplies.* The amounts for materials and supplies (FERC Accounts 151 through 163).

(h) *Electric plant held for future use.* The amount for electric plant held for future use, itemized as to land and other, and functionalized (FERC Account 105).

(i) *Nuclear fuel materials.* The amounts for nuclear fuel materials (FERC accounts 120.1 through 120.5).

(j) *Common utility plant and expenses.* Information as reported in FERC form 1, *Annual Report*,² page 351, for Class A and B utilities.

§ 290.202 Operating expense information.

For operating expenses for the reporting period, the utility shall report the following:

(a) *Operating & maintenance expense accounts.* The balances in each account, by account, for operating and maintenance expenses (FERC Accounts 500 through 598 and 901 through 932). Additionally, the estimated hourly average energy costs (in cents per kilowatt-hour) incurred to supply all retail customers and those wholesale customers that are served under firm contracts shall be reported for a typical weekday, a typical weekend day, and the system peak day for each month of the reporting period. Such average energy cost shall include variable operating and maintenance expense, fuel expense and the energy portion of purchased power expense.

²FERC Form 1, *Annual Report* refers to FPC Form 1, *Annual Report*.

(b) *Payroll.* The payroll associated with each operating and maintenance expense account, by account.

(c) *Taxes.* For taxes:

(1) All property taxes, payments in lieu of taxes, and other non-income and non-revenue related taxes (FERC Account 408.1).

(2) Income and revenue related taxes (FERC Accounts 408.1 and 409.1).

§ 290.203 Income and revenue related tax information.

If applicable to the reporting period, the utility shall report the following information necessary to calculate income and revenue related taxes for the reporting period:

(a) *Tax rates.* The applicable income tax rates and revenue related tax rates.

(b) *Differences in income items and deductions.* A specification of the differences in income items and deductions for Federal and State income taxes.

(c) *Itemized deductions.* An itemization of the Federal income tax deductions in addition to those contained in §§ 290.201 and 290.202; i.e., interest, tax depreciation above book depreciation, etc.

(d) *Adjustments to taxes.* Federal and State adjustments for such items as provisions for deferred income taxes, income taxes deferred in previous years, and investment tax credits, including the amortization and reporting period amounts.

§ 290.204 Rate of return information.

The utility shall report the following for the reporting period:

(a) *Capitalization.* Beginning and end of year balances for various components of total capitalization.

(b) *Costs of capital.* Costs of capital, including interest costs and book values of the various issues of debt and preferred stock book value and dividends for the various issues of preferred stock.

§ 290.205 Costing periods.

The utility shall design and report costing periods which group together contiguous hours of similar cost in an administratively feasible manner.

Subpart C—Marginal Cost Information

§ 290.301 General instructions for reporting marginal cost information.

The utility shall report all marginal cost information in accordance with the following general instructions:

(a) *Estimates of future costs and inflation factors used.* Except as otherwise specified, all estimates of future costs may be reported either in

constant (base year) dollars or in current (expenditure year) dollars, and the assumed inflation factors shall be indicated.

(b) *Historic costs.* Except where an adjustment is specifically required, all historic costs shall be as recorded.

(c) *Designation of estimations.* All estimated historic and reporting period information shall be designated "Est."

(d) *Information not applicable.* All requested information not applicable to the utility's operations shall be designated "Not Applicable."

§ 290.302 Generation cost information.

For generation costs the utility shall report the following:

(a) *Production planning information for existing generating plants.* For the reporting period for each generating unit (or for each group of generating units with similar operating characteristics):

(1) Plant-unit identification. (If two or more units are reported as a group, identify each unit.)

(2) If jointly owned, the percent ownership of the unit's total capability.

(3) The kind of unit (steam, internal combustion, gas turbine, nuclear, conventional hydroelectric, pumped storage, or other).

(4) Estimated retirement date.

(5) Primary and secondary fuel types.

(6) Net dependable capacity (in kilowatts).

(7) Fixed operating and maintenance expenses (in dollars per kilowatt per year).

(8) Cost of fuel per kilowatt-hour of net generation at full load; i.e., when the unit is run at 100 percent of net dependable capacity (in cents per kilowatt-hour).

(9) Average cost of fuel per million Btu's burned.

(10) Average heat content of fuel burned (in Btu's per unit of fuel measure).

(11) Heat rates at 100, 75 and 50 percent of net dependable capacity (in Btu's per kilowatt-hour).

(12) Non-fuel variable operating and maintenance costs per kilowatt-hour of net generation (in cents per kilowatt-hour).

(13) Planned maintenance requirements (in days of maintenance per year).

(14) Equivalent forced outage rate (in percent).

(15) Minimum loading under normal operating conditions (in kilowatts).

(16) Time required to achieve full load from:

(i) A cold start.

(ii) A hot start.

(17) Start-up costs from a cold start (in dollars).

(18) Number of hours connected to load.

(19) Net generation, exclusive of plant use.

(20) If the unit is hydroelectric, the following information for each month of the reporting year:

(i) Net capability under average or median flow conditions (in kilowatts).

(ii) Net capability under adverse flow conditions (in kilowatts).

(iii) Monthly energy output under average or median flow conditions (in kilowatt-hours).

(iv) For hydroelectric units having storage capability, the usable storage capacity (in acre-feet or equivalent megawatt-hours).

(21) Capital costs, on an undepreciated original cost basis, as follows:

(i) Land and land rights, if such costs are incurred for the unit.

(ii) Structures and improvements.

(iii) Equipment.

(iv) Total capital costs.

(v) Cost per kilowatt of installed capacity.

(b) *Production planning information for planned additions to generating capacity.* For the first full year of commercial operation for each generating unit (or for each group of generating units with similar operating characteristics) which is planned to go into operation during the next 10 years:

(1) Plant-unit identification. (If two or more units are reported as a group, identify each unit.)

(2) If to be jointly owned, the planned percent ownership of the unit's expected capability.

(3) Kind of unit (steam, internal combustion, gas turbine, nuclear, conventional hydroelectric, pumped storage, or other).

(4) Planned date of commercial operation.

(5) Estimated earliest possible date of commercial operation.

(6) Estimated unit life.

(7) Primary and secondary fuel types.

(8) Expected net dependable capacity (in kilowatts).

(9) Annual estimated expenditures up to planned date of commercial operation, separating out AFUDC.

(10) Estimated fixed operating and maintenance expenses (in dollars per kilowatt per year).

(11) Estimated cost of fuel per kilowatt-hour of net generation at full load; i.e., when the unit is run at 100 percent of net dependable capacity (in cents per kilowatt-hour).

(12) Estimated average cost of fuel per million Btu's burned.

(13) Expected average heat content of fuel to be burned (in Btu's per unit of fuel measure).

(14) Estimated heat rates at 100, 75 and 50 percent of net dependable capacity (in Btu's per kilowatt-hour).

(15) Estimated non-fuel variable operating and maintenance costs per kilowatt-hour of net generation (in cents per kilowatt-hour).

(16) Expected planned maintenance requirements (days of maintenance per year).

(17) Expected annual equivalent forced outage rate (in percent).

(18) Expected minimum loading under normal operating conditions (in kilowatts).

(19) Expected time required to achieve full load from:

(i) A cold start.

(ii) A hot start.

(20) Estimated start-up costs from a cold start (in dollars).

(21) Expected number of hours connected to load.

(22) Expected net generation, exclusive of plant use.

(23) If the unit is hydroelectric, the following information for each month of the first full year of operation:

(i) Expected net capability under average or median flow conditions (in kilowatts).

(ii) Expected net capability under adverse flow conditions (in kilowatts).

(iii) Expected monthly energy output under average or median flow conditions (in kilowatt-hours).

(iv) For hydroelectric units having storage capability, the expected usable storage capacity (in acre-feet or equivalent megawatt-hours).

(24) Estimated capital costs as follows:

(i) Land and land rights, if such costs will be incurred for the unit.

(ii) Structures and improvements.

(iii) Equipment.

(iv) Total capital cost.

(v) Cost per kilowatt of installed capacity.

(c) *Factors affecting existing generating units.* For the existing generating units specified in paragraph (a) of this section, the following additional information:

(1) A description of any changes in engineering, regulatory or economic conditions (apart from general inflation) that are expected to affect significantly, during the next 5 years, values of any of the data items reported.

(2) A description of any economic, engineering or regulatory factors that interfered during the reporting period

with merit order dispatching of the specified generating units and an assessment of the likelihood that those factors will continue to limit merit order dispatching during the next 10 years.

(d) *Planning method used.* A description of the system planning method or model used to determine the pattern of generating capacity additions specified in paragraph (b) of this section.

(e) *Other sources of information.* A list of any publicly available reports, documents and forms containing information about the utility's planned additions to generating or transmission capacity which were supplied within the previous 18 months to regional reliability councils or to State or Federal regulatory agencies.

(f) *Ten year resource projection.* For each of the next 10 years, estimates of the following at the time of each summer and winter peak:

(1) The net dependable capacity available from system plants.

(2) The total capacity available through firm purchase agreements.

(3) The total firm obligations of capacity to other systems.

(4) The total system net dependable capacity (paragraphs (f)(1) plus (f)(2) of this section minus paragraph (f)(3)).

(5) The total system reserve capacity required.

(6) The total reserve capacity available from other systems through interchange or emergency agreements.

(7) The reserve capacity to be supplied by system plants (paragraph (f)(5) of this section minus paragraph (f)(6)).

(8) The net assured system capacity (paragraph (f)(4) of this section minus paragraph (f)(7)).

(g) *Net annual cost of the generating unit or units that will be installed to meet increases in peak demand.* The estimated net annual cost (in dollars per kilowatt) of the generation unit or units most likely to be installed by the utility during the next 10 years to meet increases in peak demand. The net annual cost shall be defined as the additional carrying charges for the unit less any fuel savings that may occur as a result of the unit's addition. The calculation should take into account the life cycle costs of the equipment being analyzed. As an alternative to supplying information on the specific generation facility selected, the utility may provide the estimated net annual cost of a 50 or 100 megawatt facility of the capacity type selected.

§ 290.303 Energy cost information.

For energy costs, the utility shall report the following:

(a) *Typical hourly marginal energy costs.* Hourly marginal energy costs (in cents per kilowatt-hour) for a typical weekday, a typical weekend day, and the system peak day for each month of the reporting period and for each month of the next 5 years. Marginal energy cost at any hour shall be defined, for purposes of fulfilling the reporting requirements of this part, as the cost of fuel and variable operating and maintenance expenses incurred in producing an additional kilowatt-hour of electricity to supply all retail customers and those wholesale customers that are served under firm contracts. Marginal energy costs shall be equivalent to the fuel and variable operating and maintenance costs of the most expensive machine on line use of which will be increased or decreased in response to additional changes in demand. If increments or decrements to such retail and wholesale load are supplied by purchased power, the marginal energy cost shall be defined as the cost of that purchased power.

(b) *Other information on marginal energy costs.* If the utility has calculated marginal energy costs or system lambdas for any hours other than those reported in paragraph (a) of this section, this additional information, upon request.

(c) *Pool hourly marginal energy costs.* If the utility is a member of a centrally dispatched power pool, hourly marginal energy costs (in cents per kilowatt-hour) for a typical weekday, a typical weekend day, and the pool peak day for each month of the reporting period and for each month of the next 5 years.

(d) *Procedures and models used.* A general description of the procedures and models used in estimating hourly marginal energy costs.

(e) *Hydroelectric units.* If a hydroelectric unit is used to meet a marginal load, the assumptions and procedures used in valuing the electricity produced from the hydroelectric source.

(f) *Effect of purchased power costs.* The following information on purchased power costs:

(1) The hours in the typical days of the reporting period specified in paragraph (a) of this section when the marginal energy cost was determined by the price paid for purchased power, with citations to contracts, tariffs or agreements then in effect.

(2) The hours in the projected typical days specified in paragraph (a) of this section in which the marginal energy

cost is likely to be determined by the price paid for purchased power, with citations to contracts, tariffs or agreements currently in effect and likely to determine the hourly marginal energy costs specified in paragraph (a) of this section.

(g) *Marginal energy costs by costing period and by year.* Estimates of the average hourly marginal energy cost (in base year cents per kilowatt-hour) by costing period for the reporting year and for each of the next 5 years using the costing periods specified in § 290.308. For example, if 4 costing periods are specified in § 290.308, 24 items would be reported.

(h) *Calculated marginal energy costs by costing period.* A single marginal energy cost calculated for each of the costing periods specified in § 290.308, using the information specified in paragraph (g) of this section, and a description of the assumptions and procedures used in making these calculations. For example, if 4 costing periods are specified in § 290.308, 4 items would be reported based on the 24 items reported in paragraph (g) of this section.

(i) *Effect of energy loss.* The estimated marginal energy costs by voltage level for the different costing periods specified in § 290.308 using the estimates of energy loss factors specified in § 290.406(b).

§ 290.304 Transmission cost information.

For transmission costs the utility shall report the following:

(a) *Plant information.* For transmission plant:

(1) The expenditures for additions to transmission plant by principal voltage levels for the reporting year and for each of the previous 10 years separating out AFUDC. If available, expenditures for replacements shall be separated out and labeled accordingly.

(2) The estimated expenditures for additions to transmission plant by principal voltage levels for each of the next 5 years, separating out expected AFUDC. If available, expenditures for replacements shall be separated out and labeled accordingly.

(3) An estimate of the cost of additional transmission investment (in base year dollars) that would be required for the installation of the generation facility or facilities described in § 209.302(g); i.e., the cost required to establish a connection from the high voltage side of the step-up transformer at the generation facility through the switch connection to the transmission grid, plus such other expenditures as may be necessary to strengthen the

transmission system to accommodate the unit or units.

(4) For paragraphs (a)(1) and (a)(2) of this section, payments received and an estimate of payments to be received from other utilities for use of the additional transmission capacity.

(5) A system map showing the following, except that a utility need not identify the specific site of a planned facility if it believes that disclosure of such information will raise acquisition costs:

(i) Existing generation and transmission facilities.

(ii) Generation facilities planned to go into commercial operation during the next 10 years.

(iii) Transmission facilities planned to go into commercial operation during the next 5 years.

(b) *Operating and maintenance expense.* For operating and maintenance expenses (FERC Accounts 560 through 573):

(1) The transmission operating and maintenance expenses, by account where applicable, for the reporting year and for each of the previous 10 years, adjusting to typical levels any expenses which the utility believes were extraordinary or likely to be non-recurring.

(2) The estimated transmission operating and maintenance expenses for each of the next 5 years. This information may be provided in the form of estimated totals for each of the next 5 years and need not be given by account number.

(3) The operating and maintenance expenses associated with the installation of the additional transmission plant specified in paragraph (a)(3) of this section.

(4) For paragraphs (b)(1) and (b)(2) of this section, the following:

(i) Dispatch expenses related to pool or interchange operations.

(ii) Any fixed payments, such as rental payments.

§ 290.305 Distribution and customer cost information.

For distribution and customer costs the utility shall report the following:

(a) *Plant information.* For distribution plant:

(1) The expenditures for additions to distribution plant for the reporting year and for each of the previous 5 years. If available, expenditures for replacements shall be separated out and labeled accordingly.

(2) The expected expenditures for additions to distribution plant for each of the next 3 years. If available,

expenditures for replacements shall be separated out and labeled accordingly.

(3) An estimate of the current cost of connecting a new customer to the distribution system for each customer group specified in § 290.404 (b) and (d). This estimate should show, if practicable, the current cost of the following:

(i) An additional distribution line for the average addition.

(ii) an additional kilovolt-ampere of line transformer for the average addition.

(iii) The service drop for the average addition.

(iv) The meter used for the average addition.

(v) The labor required to connect a new customer.

(b) *Operating and maintenance expense.* For operating and maintenance expenses (FERC Accounts 580 through 598):

(1) The distribution operating and maintenance expenses, by account where applicable, for the reporting year and for each of the previous 5 years, adjusting to typical levels any expenses which the utility believes were extraordinary or likely to be non-recurring.

(2) The estimated distribution operating and maintenance expenses for each of the next 3 years. This information may be provided in the form of estimated totals for each of the next 3 years and need not be provided by account number.

§ 290.306 Other cost information.

For each of the previous 5 years, the utility shall report the following:

(a) *Customer expenses.* Customer account expenses, by account (FERC Accounts 901 through 910).

(b) *Sales expenses.* Sales expenses, by account (FERC Accounts 911 through 916), indicating separate amounts that can reasonably be attributed to each customer group specified in § 290.404 (b) and (d).

(c) *Administrative and general expenses.* Administrative and general expenses, by account (FERC Accounts 920 through 932).

(d) *Certain taxes.* Social security and unemployment taxes (FERC Account 408.1).

(e) *Electric plant in service.* Electric plant in service, end of the year (FERC Account 101).

(f) *General plant.* General plant, by account, end of the year (FERC Accounts 389 through 399).

(g) *Materials and supplies.* Materials and supplies, by account, end of the

year (FERC Accounts 151 through 157 and 163).

(h) *Prepayments.* Prepayments, end of the year (FERC Account 165).

§ 290.307 Annual carrying charge rates.

For annual carrying charge rates the utility shall report the following:

(a) *Estimates.* Estimates of current annual carrying charge rates for generation, transmission, and distribution facilities based on annual revenue requirement calculations for a hypothetical \$1000 investment. These calculations shall be made in accordance with the following rules:

(1) The calculations shall correspond to the regulatory prescriptions of the predominant retail regulatory jurisdiction.

(2) Publicly owned systems shall present carrying charge rates calculated with reference to the cost factors relevant to their system planning.

(3) The rate of return component shall be based on the utility's expected capital structure and marginal costs of debt, preferred and common equity and customer contributed capital.

(b) *Worksheets.* Worksheets showing how the calculations specified in paragraph (a) of this section were made.

§ 290.308 Costing periods.

The utility shall design and report costing periods which group together contiguous hours of similar cost in an administratively feasible manner.

Subpart D—Load Data

§ 290.401 General instructions for reporting load data.

The utility shall report load data in accordance with the following general instructions:

(a) *Hourly load data.* Kilowatt loads shall be reported for a 24-hour period, beginning at 12:01 a.m. and ending at 12:00 midnight, local time, using an interval of integration of the reporting utility's choice, so long as such time interval is no longer than 60 minutes. Pool, system and customer group loads shall be reported using the same integration interval. If loads are metered on a different basis from that reported, the time interval of integration for metered loads and the factor which converts metered loads to reported loads shall be specified.

(b) *Load data by retail regulatory jurisdiction.* Each utility that serves at retail in more than one retail regulatory jurisdiction shall report load data specified in § 290.403 as follows:

(1) By separate retail regulatory jurisdiction for data specified in § 290.403 (a)(1) and (a)(2) and (a)(3),

unless all such jurisdictions waive the separate reporting requirement. Opportunity for comment on the waiver request shall be allowed prior to Commission action on the waiver.

(2) For the system as a whole, for data specified in § 290.403(a)(4), unless 1 or more retail regulatory jurisdictions requests separate reporting by jurisdiction, in which case such separate reporting shall be required. If a party other than a retail regulatory jurisdiction requests that hourly customer group load data be reported separately, that party must demonstrate that the benefits of reporting such loads by separate jurisdictions outweigh the costs of reporting such loads by separate jurisdictions.

(c) *Applications for waiver or separate reporting.* Applications under paragraph (b) of this section for waiver or for separate reporting of customer group load data shall be filed with the Commission at least 2 years prior to the time the data would otherwise be required to be reported.

(d) *Option for 1980 filing.* In complying with the filing requirement for November, 1980, the utility may choose whether to report the customer group load data specified in § 290.403 (a)(1), (a)(2), (a)(3) and (a)(4) for the system as a whole or on a separate jurisdictional basis.

(e) *Master metering.* For purposes of reporting data in § 290.406, "customers" shall be defined as meters. A utility with master metered loads shall report the number of master meters separately, if available, and identify the groups of customers served under master meters, if available.

§ 290.402 Load data for the total of all customers (system and pool load data).

The utility shall report system and pool load data as follows:

(a) *General.* The kilowatt load shall be measured by the sum of the coincident net generation and purchases, plus or minus net interchange, minus temporary deliveries (not interchange) of emergency power to another system. These data shall be consistent with the monthly coincident peak kilowatt loads as reported in FERC Form 1, *Annual Report*, page 431, column (b).

(b) *Pool load data.* If the utility is a member of a power pool that centrally dispatches or a power pool that plans future bulk power facilities as a pool, load data as specified in this section shall be reported for the pool as well as the utility, unless otherwise specified.

(c) *Historic peak loads.* For each of the previous 10 years, the summer and

winter peak loads on the system (in kilowatts) shall be reported and the date, day of the week and time of day for each peak shall be indicated. These data are not required for power pool reporting.

(d) *Load data for the reporting period.* For the reporting period, the following data shall be reported:

(1) Kilowatt load for each clock hour of each day. A utility that provides the Edison Electric Institute with "Load Diversity Studies" may provide these data in computer compatible form to satisfy this reporting requirement.

(2) As an alternative to paragraph (d)(1) of this section, hourly system loads for a typical weekday, a typical weekend day and the system peak day for each month in the reporting period, if the utility certifies that it will make the information specified in paragraph (d)(1) of this section available upon request.

(3) Monthly peak (maximum coincident kilowatt) load for each month, indicating the date, day of the week and time of day for each peak. If monthly peaks are normalized for weather or for other factors affecting loads, the utility shall report these data, along with a description and demonstration of the normalizing techniques used.

(e) *Projected load data.* For each of the next 5 years and for the tenth year, the following shall be reported:

(1) The projected annual load duration curves and the duration of load (in hours) at 100, 98, 95, 90, 80, 60, 40 and 20 percent of the peak load and an indication as to whether these data were used as the basis for the planned capacity additions reported under § 290.302(b).

(2) For each of the next 5 years and for the period between the fifth and tenth year, the average annual growth rates implied by the projected load duration curves specified in paragraph (e)(1) of this section for total kilowatt-hour sales, summer peak load, and winter peak load.

(3) Hourly loads for a typical week day, a typical weekend day and the system peak day for each month, or for each group of months for which there is no variation in hourly load.

§ 290.403 Load data for certain customer groups.

The utility shall report load data for each customer group for which data are required to be reported under § 290.404 as follows:

(a) *General.* For each month in the reporting period and for each such customer group:

(1) The group maximum demand (in kilowatts).

(2) The group contribution (in kilowatts) to the monthly jurisdictional maximum demand.

(3) The group contribution (in kilowatts) to the monthly system maximum coincident demand.

(4) Hourly group loads for a typical week day, a typical weekend day, the group peak day, and the system peak day.

(b) *Accuracy level.* If sample metering is required, the sampling method and procedures for collecting, processing, and analyzing the sample loads, taken together, shall be designed so as to provide reasonably accurate data consistent with available technology and equipment. An accuracy of plus or minus 10 percent at the 90 percent confidence level shall be used as a target for the measurement of group loads at the time of system and customer group peaks.

(c) *Sampling plan.* The utility shall file a sampling plan and description of any current sample at the time of making its first filing under this part and, if the load data are required to be collected on a sample metered basis but the data collected do not realize the target level of accuracy specified in paragraph (b) of this section, the utility shall explain why that target was not met.

(d) *Load research conducted every 5 years.* If load data are required to be collected on a sample metered basis, such research need not be conducted more frequently than every 5 years for any utility that had total sales of electric energy for purposes other than resale of less than 1 billion kilowatt-hours annually in the three-calendar-year period 2 years prior to the reporting period. The kilowatt demands obtained from sample metering shall be updated in each reporting period to reflect current kilowatt-hour sales, customers and other consumption determinants and a description and example of the estimation technique and underlying data used for such updating shall be provided.

§ 290.404 Customer groups to be reported.

Subject to the provisions of paragraphs (e) and (f) of this section, the utility shall gather and report the load data specified in § 290.403 for each of the following customer groups. Best estimates shall be based on any sample metered data collected for all or part of the group and may also be based on borrowed data to the extent provided in § 290.405(a).

(a) *By major customer class.* The utility shall report load data in 1980 and in each subsequent reporting period on a best estimate basis for each major customer class as defined in paragraph (b) of this section.

(b) *Definition of major customer class.* Major customer class is defined as residential use (domestic), commercial use (office buildings, stores, shopping centers, etc.) and industrial use (factories, etc.) and any other rate class to which 10 percent or more of the system kilowatt-hour sales at retail are made for any month during the reporting period (other than a rate class composed in whole or in part of residential, commercial or industrial users). Estimates for each major customer class shall exclude master meters serving more than one major customer class.

(c) *By certain end use.* Subject to the provisions of paragraph (c)(3) of this section, the utility shall report load data in 1982 and in each subsequent reporting period for those major end uses specified in paragraph (d) of this section, as follows:

(1) If the utility has a separate rate for any of the specified end uses as of December 31, 1980 the utility shall report load data for such rate class on a sample metered basis in 1982 and in each subsequent reporting period, except that the utility may combine for reporting purposes any such rate classes which apply to a single specified end use.

(2) If the utility does not have a separate rate for a specified end use, the utility shall report load data for such specified end use on a best estimate basis in 1982 and on a sample metered basis in 1984 and in each subsequent reporting period.

(3) The list of items in paragraph (d) of this section shall not take effect until the Commission makes a determination that such list or a modification thereof shall become effective.

(d) *Definition of major end use.* Major end use is defined as:

- (1) Residential space heating.
- (2) Residential water heating.
- (3) Single family or individually metered multifamily dwelling units using at least 15,000 kilowatt-hours annually or using only electricity for heating, cooling, cooking, water-heating and all other domestic uses.
- (4) Commercial space heating.
- (5) Commercial space cooling.
- (6) Office building using only electricity for heating, cooling, water-heating and all other uses.
- (7) Master metered multiple dwellings.
- (8) Electric heat used in agricultural or industrial processes.

(9) Large (over 1000 Kilowatts) electric drive motors (e.g., steel rolling mills).

(10) Irrigation.

(e) *Extension for all other customer groups.* Each utility covered under § 290.101 is granted an extension until January 1, 1985 for the gathering and reporting of separate cost and load data for any electric consumer class for which there is a separate rate and for any different consumption pattern within a class if information on such class or consumption pattern is not required to be reported as a customer group under this section.

(f) *Exemption for customer groups served under time of day rates.* Each utility covered under § 290.101 is granted an exemption from collecting load data by sample metering for any customer group served under time of day rates but shall be required to submit all information which is required to be reported in §§ 290.305(a)(3), 290.306(b), 290.406, 290.501 and 290.502 for each customer group specified in paragraphs (b) and (d) of this section. This section shall not take effect until the Commission makes a determination that such exemption or a modification thereof shall become effective.

§ 290.405 Certain exemptions from reporting requirements.

Exemptions from the reporting requirements of this subpart are provided as follows:

(a) *Borrowed load data.* The utility may use borrowed load data as support for its best estimate of loads submitted for the November, 1980 filing only and may use borrowed data in any subsequent filing, only if granted such an exemption under § 290.601.

(b) *Joint load research.* If a group of utilities intends to engage in joint load research for the purpose of fulfilling the reporting requirements of §§ 290.402 and 290.403, the group may apply to the Commission under § 290.601 for an exemption from the requirement that each utility in the group separately report such data.

§ 290.406 Other information.

The utility shall report additional information as follows:

(a) *Information on customer groups.* For each customer group specified in § 290.404 (b) and (d), the following information shall be reported:

(1) The monthly energy sales (in thousand kilowatt-hours) for each month of the reporting period.

(2) The number of customers at the end of the reporting period.

(3) For the reporting period and for each of the previous 5 years, the number

of new customers, if available, by voltage level. If this information on new customers is not available, the utility shall report instead the net change in customers.

(b) *Loss factors.* The utility shall report the estimated loss factors, both for energy (kilowatt-hours) and demand (kilowatts), resulting from the transmission of electricity from the system's source to the voltage levels at which sales are made. If different loss factors apply to peak and off-peak losses, both sets of loss factors shall be provided.

(c) *Shifts on and off daylight saving time.* The utility shall report the hour, day and month of shifts on and off daylight saving time, if applicable, and the time zone in which the retail load is located.

Subpart E—Calculated Costs

§ 290.501 Accounting cost calculations.

The utility shall calculate accounting costs as follows:

(a) *Calculated accounting costs of providing service.* The utility shall calculate the accounting costs of providing service by costing period and by voltage level for each customer group specified in § 290.404 (b) and (d) and shall provide a summary of this information by completing Table 1. The table shall be completed for each retail regulatory jurisdiction in which the utility operates, unless the utility can show that the jurisdictional cost variation is not significant. If a method for calculating accounting costs has been specified by State law or by the retail regulatory jurisdiction, the calculation method used by the utility shall be consistent with such method. In the case of a non-regulated utility, the calculation method used shall be consistent with any applicable legal constraints upon such utility.

(b) *Description of method used.* The utility shall describe the method used for the calculations specified in paragraph (a) of this section as well as the following:

(1) For plant:

(i) A functional breakdown of distribution plant into demand and customer related components and an explanation of the functional allocation used.

(ii) A breakdown of demand related transmission or distribution plant by voltage levels and an explanation of this allocation.

(iii) A breakdown of all plants directly assigned to each customer group specified in § 290.404 (b) and (d), if such assignment is appropriate based on

prior precedents of the retail regulatory jurisdiction.

(2) Estimates of cash working capital required, including an explanation of the computation. Sufficient information shall be submitted to enable a calculation employing those methods specified by the retail regulatory jurisdiction or those methods chosen by the non-regulated electric utility. If the estimated cash working capital requirement is based on a lead lag study, a summary of the study shall also be filed.

(3) For operating and maintenance expenses:

(i) A functional breakdown of distribution operating and maintenance expenses into demand and customer related components and an explanation of the functional allocation made.

(ii) A breakdown of demand related transmission and distribution operating and maintenance expenses by voltage level and an explanation of the allocation method used.

(iii) A breakdown of all operating and maintenance expenses directly assigned to each customer group specified in § 290.404 (b) and (d) of such assignment is appropriate based on prior precedents of the retail regulatory jurisdiction.

(iv) For accumulated deferred income tax an explanation of the method of functionalization used.

(c) *Cost study.* The reporting utility shall provide a copy of the cost study upon which the information entered in summary Table 1 is based, or certify that such study has been conducted and will be made available upon request. This provision shall not relieve the utility from reporting any information specified in Subparts B, D and E of this part.

§ 290.502 Marginal cost calculations.

The utility shall calculate marginal costs as follows:

(a) *Calculated marginal costs of providing service.* The utility shall calculate for the system as a whole the marginal costs of providing service by

costing period and by voltage level for each customer group specified in § 290.404 (b) and (d) and shall provide a summary of this information by completing Table 2. The calculations shall be made as follows:

(1) The marginal costs shall be shown without any adjustments for revenue constraints. This requirement shall in no way prevent the utility from presenting an additional table showing how time differentiated rates could be developed from the information developed in summary Table 2.

(2) If a method for calculating marginal costs has been specified by the predominant retail regulatory jurisdiction or by State law in that jurisdiction, the calculation method used by the utility shall be consistent with such method. In the case of a non-regulated electric utility, the calculation method used shall be consistent with any applicable legal constraints upon such utility.

(b) *Description of method used.* The utility shall describe the method used for the calculations specified in paragraph (a) of this section as well as the following:

(1) A listing of the different components of demand related costs (marginal generation, transmission, and distribution capacity costs) and how such costs were calculated.

(2) A description of how demand related costs were determined for different costing periods.

(3) A description of how the marginal energy costs specified in § 290.303 were calculated.

(4) A listing of the different components of customer costs and how such costs were calculated.

(c) *Cost study.* The utility shall provide a copy of the cost study upon which the information entered in summary Table 2 is based or certify that such a study has been conducted and will be made available upon request. This provision shall not relieve the utility from reporting any information specified in Subparts C, D and E of this part.

Table 1.—Illustrative Summary of Accounting Costs by Costing Period, Customer Group and Voltage Level

Customer group and voltage level	Costing period				Annual customer cost
	Peak hours		Off-peak hours		
	I	II	III	IV	
Customer Group A:					
Voltage Level 1					\$/customer.
Demand Costs:					
Generation	\$/kW	\$/kW	\$/kW	\$/kW	
Transmission	\$/kW	\$/kW	\$/kW	\$/kW	
Distribution	\$/kW	\$/kW	\$/kW	\$/kW	
Energy Costs	¢/kWh	¢/kWh	¢/kWh	¢/kWh	
Voltage Level 2					\$/customer.
Demand Costs:					
Generation	\$/kW	\$/kW	\$/kW	\$/kW	
Transmission	\$/kW	\$/kW	\$/kW	\$/kW	
Distribution	\$/kW	\$/kW	\$/kW	\$/kW	
Energy Costs	¢/kWh	¢/kWh	¢/kWh	¢/kWh	

Table 1.—Illustrative Summary of Accounting Costs by Costing Period, Customer Group and Voltage Level

Customer group and voltage level	Costing period				Annual customer cost
	Peak hours		Off-peak hours		
	I	II	III	IV	
Customer Group B:					
Voltage Level 1					\$/customer.
Demand Costs:					
Generation	\$/kW	\$/kW	\$/kW	\$/kW	
Transmission	\$/kW	\$/kW	\$/kW	\$/kW	
Distribution	\$/kW	\$/kW	\$/kW	\$/kW	
Energy Costs	¢/kWh	¢/kWh	¢/kWh	¢/kWh	

N.B.—Both the number and designation of the costing periods, customer groups, and voltage levels shown in this table are illustrative. They are not intended to suggest any constraint on the reporting utility's choice of the specifications most appropriate to its operation. The costing period, customer groups, and voltage levels chosen, however, should be clearly specified either in the table headings or in footnotes.

Table 2.—Illustrative Summary of Marginal Costs by Costing Period, Customer Group and Voltage Level

Customer group and voltage level	Costing period				Annual customer cost
	Peak hours		Off-peak hours		
	I	II	III	IV	
<hr/>					
Customer Group A:					
Voltage Level 1.....					\$/customer.
Demand Costs:					
Generation	\$/kW	\$/kW	\$/kW	\$/kW	
Transmission	\$/kW	\$/kW	\$/kW	\$/kW	
Distribution	\$/kW	\$/kW	\$/kW	\$/kW	
Energy Costs.....	¢/kWh	¢/kWh	¢/kWh	¢/kWh	
Voltage Level 2.....					\$/customer.
Demand Costs:					
Generation	\$/kW	\$/kW	\$/kW	\$/kW	
Transmission	\$/kW	\$/kW	\$/kW	\$/kW	
Distribution	\$/kW	\$/kW	\$/kW	\$/kW	
Energy Costs.....	¢/kWh	¢/kWh	¢/kWh	¢/kWh	
Customer Group B:					
Voltage Level 1.....					\$/customer.
Demand Costs:					
Generation	\$/kW	\$/kW	\$/kW	\$/kW	
Transmission	\$/kW	\$/kW	\$/kW	\$/kW	
Distribution	\$/kW	\$/kW	\$/kW	\$/kW	
Energy Costs.....	¢/kWh	¢/kWh	¢/kWh	¢/kWh	

N.B.—Both the number and designation of the costing periods, customer groups, and voltage levels shown in this table are illustrative. They are not intended to suggest any constraint on the reporting utility's choice of the specifications most appropriate to its operations. The costing periods, customer groups, and voltage levels chosen, however, should be clearly specified either in the table headings or in footnotes. In most circumstances the cost components shown in this table would require adjustments in order to be used for billing under time differentiated rates.

Subpart F—Exemptions and Extensions

§ 290.601 Exemptions.

Applications for exemptions shall be made as follows:

(a) *Application.* A utility may apply for an exemption from all or part of the requirements set forth in this part by filing an application with the Commission no less than 18 months prior to the time the information would otherwise be required, and by November 1, 1979, for the 1980 filing. The application shall contain the following information:

(1) The name and location of the applicant.

(2) The time of filing for which each exemption is sought.

(3) The nature of each exemption sought, including a list of the requirements set forth in Subparts B, C, D and E of this part from which the exemption is sought and information explaining why the gathering of such information will not be likely to carry out the purposes of section 133 of PURPA. Such information shall include the following:

(i) If the exemption is based on the nature of the utility or on the type or extent of service provided, the application shall contain information specifically relating such factors to the nature of the exemption sought.

(ii) If the exemption is based on alternate compliance with the requirements of section 133 of PURPA, the application shall contain a showing,

with respect to the specific utility, that the purposes of section 133 have been and will continue to be served by use of such alternate procedures.

(iii) If the exemption is based on plans for deferred compliance with the reporting requirements of this part, the application shall contain information on economic, technical, or other factors which prevent timely compliance, and shall contain a plan of compliance stating the schedule of actions to be taken by the utility to achieve full compliance.

(4) A statement of any action taken by a State regulatory authority in response to an application submitted to such State regulatory authority under paragraph (b) of this section, together with the statement of concurrence by the State regulatory authority, if any.

(b) *State regulatory authority review of applications for exemption.* A utility regulated by a State regulatory authority and applying for an exemption under this section shall submit such application to any State regulatory authority which has ratemaking authority for such utility for review prior to or concurrent with filing the application with the Commission.

(c) *Requests by a State regulatory authority.* A State regulatory authority may act on behalf of 1 or more utilities subject to its regulation in requesting a total or partial exemption. Such requests shall be filed at least 18 months prior to the time the information would otherwise be required and shall contain the following information:

(1) The name and location of the utility for which the exemption is sought.

(2) The time of filing for which the exemption is sought.

(3) The nature and duration of the exemption sought including a list of the requirements set forth in Subparts B, C, D and E of this part for which each exemption is sought and information explaining why the gathering of such information will not be likely to carry out the purposes of section 133 of PURPA. Such information shall include that information specified in paragraph (a)(3) (i), (ii) and (iii) of this section.

(d) *Public notice and comment.* (1) Within 15 days following receipt of the completed application for exemption submitted in accordance with paragraphs (a) or (c) of this section:

(i) The application shall be noticed in the Federal Register.

(ii) The utility shall apply to each State regulatory authority by which it is regulated to have such application

published in any official State publication in which rate change applications are usually noticed.

(iii) The utility shall have such application published in a sufficient number of newspapers of general circulation in the affected jurisdiction so as to give widest practicable notice to interested parties.

(2) A period of 45 days shall be permitted for receipt of written information, views, arguments, or other comments on the application, which period shall commence at the time all requirements imposed in paragraph (d)(1) of this section have been fulfilled.

(3) Additional information required for purposes of review and evaluation of the application shall be supplied if requested by Commission Staff or by the State regulatory authority.

(4) Within 15 days following the conclusion of the comment period, the applicant may file reply comments.

(e) *Scope of exemption.* A utility shall submit a separate application for each filing year for which it seeks a partial or total exemption. An exemption granted by the Commission shall apply only to the next filing required under § 290.102, unless otherwise specifically provided by the Commission.

§ 290.602 Extensions.

Applications for extensions shall be made as follows:

(a) *Applications.* A utility may apply for an extension of the November, 1980, deadline for all or part of the requirements set forth in this part by filing an application with the Commission on or before May 1, 1980, which application shall contain the following information:

(1) The name and location of the applicant.

(2) A description of the information requirements for which the extension is sought, including the length of the proposed extension.

(3) A showing of good cause for the extension sought.

(4) A statement describing plans for application for, or proposal of, any rate increase during the period covered by the extension.

(5) A statement of any action taken by a State regulatory authority in response to an application submitted to such State regulatory authority under paragraph (b) of this section, together with the statement of concurrence by the State regulatory authority, if any.

(6) A plan of compliance setting forth the steps that the utility will take to comply fully with the reporting requirements of this part and indicating

the time when the information will be supplied.

(b) *State regulatory authority review of application for extension.* A utility regulated by a State regulatory authority and applying for an extension under this section shall submit such application to any State regulatory authority which has ratemaking authority for such utility for review prior to or concurrent with filing the application with the Commission.

(c) *Additional information.* Additional information required for purposes of review and evaluation of the application shall be supplied if requested by Commission Staff or by the State regulatory authority.

(d) *Comments by interested parties.* The Commission may seek comments from interested parties on applications for extensions.

Subpart G—Enforcement

§ 290.701 Enforcement provisions.

Pursuant to section 133(d) of PURPA, any person that violates a requirement of this part shall be subject to the following sanctions:

(a) *Violations.* Whoever violates any provision of this part shall be subject to a civil penalty of not more than \$2,500 for each violation.

(b) *Willful violations.* Whoever willfully violates any provision of this part shall be fined not more than \$5,000 for each violation.

(c) *Civil action by Attorney General.* Whenever it appears to the Commission or to its designee that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of this part, the Commission or its designee may request the Attorney General to bring a civil action to enjoin such acts or practices, and upon a proper showing, a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. In such action, the court may also issue mandatory injunctions commanding any person to comply with any provision, the violation of which is prohibited by this section.

(d) *Civil action by private party.* Any person suffering legal wrong because of any act or practice arising out of any violation of this part may bring a civil action for appropriate relief, including an action for a declaratory judgment or writ of injunction. United States district courts have jurisdiction of actions under this paragraph without regard to the amount in controversy. Nothing in this

paragraph shall authorize any person to recover damages.

[FR Doc. 79-12298 Filed 6-12-79; 8:45 a.m.]
BILLING CODE 6450-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 153

[T.D. 79-166]

Antidumping; Certain Carbon Steel Plate From Taiwan

AGENCY: U.S. Treasury Department.

ACTION: Finding of Dumping.

SUMMARY: This notice is to inform the public that investigations conducted under the Antidumping Act, 1921, as amended, by the U.S. Treasury Department and the U.S. International Trade Commission, respectively, have resulted in a determination that carbon steel plate from Taiwan produced by China Steel Corporation is being sold at less than fair value and that these sales are injuring an industry in the United States. On this basis, a finding of dumping is being issued and, generally, all unappraised entries of this merchandise will be liable for the possible assessment of special dumping duties.

EFFECTIVE DATE: June 13, 1979.

FOR FURTHER INFORMATION CONTACT: David Mueller, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as "the Act"), gives the Secretary of the Treasury responsibility for determining whether imported merchandise is being sold at less than fair value. Pursuant to this authority, the Secretary has determined that carbon steel plate from Taiwan produced by China Steel Corporation is being sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)). (Published in the Federal Register of February 14, 1979 (44 FR 9639).)

Section 201(a) of the Act (19 U.S.C. 160(a)) gives the United States International Trade Commission responsibility for determining whether, by reason of such sales at less than fair value, a domestic industry is being or is likely to be injured. The Commission has determined, and on May 14, 1979, it notified the Secretary of the Treasury

that an industry in the United States is being injured by reason of the importation of carbon steel plate from Taiwan that is being sold at less than fair value within the meaning of the Act. Notice of this determination was published in the Federal Register of May 22, 1979 (44 FR 29734).

On behalf of the Secretary of the Treasury, I hereby make public these determinations which constitute a finding of dumping with respect to carbon steel plate from Taiwan produced by China Steel Corporation.

For purposes of this notice, the term "carbon steel plate" refers to hot rolled carbon steel plate, not coated or plated with metal and not clad, other than black plate, not alloyed, and other than in coils. This merchandise is classified under item 608.8415 of the Tariff Schedules of the United States Annotated.

§ 153.46 [Amended]

Accordingly, § 153.46 of the Customs Regulations (19 CFR 153.46) is being amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	Treasury decision
Carbon Steel Plate produced by China Steel Corporation.	Taiwan	79-168

(Sec. 201, 407, 42 Stat. 11, as amended, 18 (19 U.S.C. 160, 173).)

Robert H. Mundheim,
General Counsel of the Treasury.
June 7, 1979.

[FR Doc. 79-18442 Filed 6-12-79; 8:45 am]
BILLING CODE 4810-22-M

19 CFR Part 153

[T.D. 79-167]

Antidumping; Sugar From Belgium, France, and the Federal Republic of Germany

AGENCY: U.S. Treasury Department.
ACTION: Finding of Dumping.

SUMMARY: This notice is to inform the public that investigations conducted under the Antidumping Act, 1921, as amended, by the U.S. Treasury Department and the U.S. International Trade Commission, respectively, have resulted in a determination that sugar from Belgium, France and the Federal Republic of Germany is being sold at less than fair value and that these sales are injuring an industry in the United States. On this basis, a finding of dumping is being issued and, generally,

all unappraised entries of this merchandise will be liable for the possible assessment of special dumping duties.

EFFECTIVE DATE: June 13, 1979.

FOR FURTHER INFORMATION CONTACT: John Kugelman, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as "the Act"), gives the Secretary of the Treasury responsibility for determining whether imported merchandise is being sold at less than fair value. Pursuant to this authority, the Secretary has determined that sugar from Belgium, France and the Federal Republic of Germany is being sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)). (Published in the Federal Register of February 12, 1979 (44 FR 8949).)

Section 201(a) of the Act (19 U.S.C. 160(a)) gives the United States International Trade Commission responsibility for determining whether, by reason of such sales at less than fair value, a domestic industry is being or is likely to be injured. The Commission has determined, and on May 16, 1979, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of sugar from Belgium, France and the Federal Republic of Germany that is being sold at less than fair value within the meaning of the Act. Notice of this determination was published in the Federal Register of May 23, 1979 (44 FR 29992).

On behalf of the Secretary of the Treasury, I hereby make public these determinations which constitute a finding of dumping with respect to sugar from Belgium, France and the Federal Republic of Germany.

For purposes of this notice, the term "sugar" refers to raw and refined sugar provided for in item numbers 155.20 and 155.30 of the Tariff Schedules of the United States (TSUS).

§ 153.46 [Amended]

Accordingly, § 153.46 of the Customs Regulations (19 CFR 153.46) is being amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	Treasury decision
Sugar	Belgium, France, The Federal Republic of Germany.	79-107

(Sec. 201, 407, 42 Stat. 11, as amended, 18 (19 U.S.C. 160, 178).)

Robert H. Mundheim,
General Counsel of the Treasury.
June 6, 1979.

[FR Doc. 79-18443 Filed 6-12-79; 8:45 am]
BILLING CODE 4810-22-M

19 CFR Part 153

[T.D. 79-168]

Antidumping; Viscose Rayon Staple Fiber From Italy

AGENCY: U.S. Treasury Department.
ACTION: Finding of Dumping.

SUMMARY: This notice is to inform the public that separate investigations conducted under the Antidumping Act, 1921, as amended, by the U.S. Treasury Department and the U.S. International Trade Commission, respectively, have resulted in determinations that viscose rayon staple fiber from Italy is being sold at less than fair value and that these sales are injuring an industry in the United States. On this basis, a finding of dumping is being issued and, generally, all unappraised entries of this merchandise will be liable for the possible assessment of special dumping duties.

EFFECTIVE DATE: June 13, 1979.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as "the Act"), gives the Secretary of the Treasury responsibility for the determination of sales at less than fair value. Pursuant to this authority, the Secretary has determined that viscose rayon staple fiber from Italy is being sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)). (Published in the Federal Register of February 27, 1979, 44 FR 11137).

Section 201(a) of the Act (19 U.S.C. 160(a)) gives the United States International Trade Commission responsibility for determining whether, by reason of such sales at less than fair value, a domestic industry is being or is likely to be injured. The Commission has determined, and on May 22, 1979, it

notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of viscose rayon staple fiber from Italy that is being sold at less than fair value within the meaning of the Act. Notice of this determination was published in the Federal Register of May 31, 1979 (44 FR 31327).

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to viscose rayon staple fiber from Italy.

For purposes of this notice, the term "viscose rayon staple fiber" means viscose rayon staple fiber, except solution dyed, in noncontinuous form, not carded, not combed, and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments). This term includes both commodity fiber and specialty fiber.

§ 153.46 [Amended]

Accordingly, § 153.46 of the Customs Regulations (19 CFR 153.46) is being amended by adding the following to the list of findings of dumping currently in effect.

Merchandise	Country	Treasury decision
Viscose rayon staple fiber.	Italy	T.D. 79-168

(Sec. 201, 407, 42 Stat. 11, as amended, 18 [19 U.S.C. 160, 173].)

Robert H. Mundheim,
General Counsel of the Treasury.

June 1, 1979.

[FR Doc. 79-18444 Filed 6-12-79; 8:45 am]

BILLING CODE 4810-22-M

POSTAL SERVICE

39 CFR Part 111

Minimum Mail Size Standards and Nonstandard Mail Surcharge

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The final rule establishes July 15, 1979, as the effective date for the minimum size standards for all mail matter and for a surcharge to be applied to all nonstandard mail. This rule is intended to provide notice of the changes in postal regulations which implement the decisions of the Postal Service establishing the July 15, 1979, effective date.

EFFECTIVE DATE: July 15, 1979.

FOR FURTHER INFORMATION CONTACT: Skip McGill, Office of Mail Classification, (202) 245-4749.

SUPPLEMENTARY INFORMATION:

Minimum Mail Size Standards

On January 18, 1973, the Postal Service filed a request, pursuant to 39 U.S.C. 3623, with the Postal Rate Commission for a recommended decision which, among other things, would establish minimum size standards for all mail matter and a surcharge for non-standard letter size mail. On April 15, 1976, the Postal Rate Commission issued its recommended decision to the Governors of the Postal Service in that mail classification case. The Commission's decision recommended the establishment of both the minimum size requirements and a classification of nonstandard letter size mail.

On June 2, 1976, the Governors, acting on the Commission's recommendation pursuant to 39 U.S.C. 3625, established the following minimum size standards:

- All mailing pieces must be at least 0.007 of an inch thick, and
- All mailing pieces (other than keys and identification devices) which are $\frac{1}{4}$ of an inch thick or less must be:
 - (1) Rectangular in shape,
 - (2) At least $3\frac{1}{2}$ inches high, and
 - (3) At least 5 inches long.

The effective date of the implementation of these standards was postponed so that the public would have ample time to adjust to the new size requirements.

On April 3, 1979, the Board of Governors of the Postal Service, by resolution issued pursuant to 39 U.S.C. 3625(f), ordered that the minimum size standards become effective at 12:01 A.M. on July 15, 1979. In order to implement those decisions, the Postal Service adopts a new Part 129 of the Postal Service Manual setting forth the minimum size standards and their effective date. In addition, the Postal Service also adopts conforming amendments to sections 131.2, 131.3 and 134.3 of the Postal Service Manual.

Nonstandard Mail Surcharge

In addition to the establishment of minimum size standards for all mail matter, the Governors' decision of June 2, 1976 declared that First-Class Mail weighing less than one ounce and single piece rate third-class mail weighing less than two ounces, are nonstandard and subject to a surcharge unless they meet the following size standards:

- Length not greater than 11.5 inches, and
- Height not greater than 6.125 inches, and
- Thickness not greater than .25 inches, and

d. An aspect ratio (ratio of height to length) between 1:1.3 and 1:2.5 inclusive.

These regulations are incorporated in sections 131.34 and 134.33 of the Postal Service Manual. The application of a surcharge on nonstandard mail was also postponed in order to afford mailers a transition period in which to adapt to the new standards.

In April, 1978, the Postal Service, pursuant to 39 U.S.C. § 3622, requested from the Postal Rate Commission a recommended decision on a proposal to apply a surcharge, in addition to the applicable postage and fees, on nonstandard size mail. After public hearings on the proposal, the Commission, on February 26, 1979, transmitted its recommended decision to the Governors of the Postal Service to establish the surcharge at 7 (seven) cents per piece.

On April 3, 1979, the Governors, pursuant to 39 U.S.C. § 3625, approved the Commission's recommended decision, and the Board of Governors, by resolution issued pursuant to 39 U.S.C. § 3625(f), ordered the surcharge implemented at 12:01 A.M. on July 15, 1979. In order to implement those decisions, the Postal Service adopts conforming amendments to sections 131.13, 131.34 and 134.33 of the Postal Service Manual.

For the above reasons, the Postal Service hereby adopts the following amendments to the Postal Service Manual:

1. Add a new Part 129 to read as follows:

PART 129—MINIMUM SIZES

Effective July 15, 1979, the following minimum size standards will be applicable:

- All mailing pieces must be at least 0.007 of an inch thick.
- All mailing pieces (other than keys and identification devices mailed pursuant to 134.13) which are $\frac{1}{4}$ of an inch thick or less must be:
 - (1) Rectangular in shape,
 - (2) At least $3\frac{1}{2}$ inches high, and
 - (3) At least 5 inches long.

Note.—Effective July 15, 1979, mailing pieces which do not meet these minimum size standards will be prohibited from the mails.

PART 131—FIRST CLASS

2. In 131.1 amend .13 to read as follows:

131.1 Rates

* * * * *

.13 Nonstandard Surcharge

Effective July 15, 1979, a surcharge of 7 (seven) cents will be assessed on each

piece of nonstandard mail as defined in 131.34.

3. Add statements at the end of 131.222 (a) and (b) as follows:

.222 Post cards

* * * * *

a. * * *

Effective July 15, 1979, post cards may not be smaller than 3½ by 5 inches. (See 129.)

b. * * *

Effective July 15, 1979, the thickness of post cards may not be less than 0.007 of an inch.

4. Add the following statement at the end of 131.33:

.33 Shape, ratio, and sealing for envelopes, cards, and self-mailers.

* * * * *

Note.—Effective July 15, 1979, all first-class mailing pieces which are ¼ of an inch thick or less must be rectangular in shape, at least 3½ inches high, and at least 5 inches long. All first-class mailing pieces must also be at least 0.007 of an inch thick, effective July 15, 1979. (See 129.)

5. In 131.34 amend .342 and add .343 to read as follows:

.34 Nonstandard First-Class Mail

* * * * *

.342 Nonstandard mail often results in delays or damage to mail because it does not lend itself to machine processing. For this reason, mailers are encouraged to avoid mailing nonstandard First-Class Mail.

.343 Effective July 15, 1979, a surcharge of 7 (seven) cents will be assessed on each piece of nonstandard First-Class Mail.

PART 134—THIRD CLASS

6. Add the following statement at the end of 134.32:

.32 Size, Shape, and Ratio

* * * * *

Note.—Effective July 15, 1979, all third-class mailing pieces (other than keys and identification devices mailed pursuant to 134.13) which are ¼ of an inch thick or less must be rectangular in shape, at least 3½ inches high, and at least 5 inches long. All third-class mailing pieces must also be at least 0.007 of an inch thick, effective July 15, 1979. (See 129.)

7. In 134.33 amend .333 to read as follows:

.33 Nonstandard Third-Class Mail

* * * * *

.333 Effective July 15, 1979, a surcharge of 7 (seven) cents will be assessed on each piece of nonstandard third-class single piece rate mail.

These changes will be included in the Domestic Mail Manual when it is published this summer. These changes will be published in the Federal Register as provided in 39 CFR 111.3.

(39 U.S.C. 401(2))

W. Allen Sanders,

Acting Deputy General Counsel.

[FR Doc. 79-18335 Filed 6-12-79; 8:45 am]

BILLING CODE 7710-12-M

39 CFR Part 257

Stamp Accountability at Philatelic Outlets

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This change in postal regulations authorizes a postmaster to maintain postage stock (includes stamps, stationery, and other philatelic products) of up to \$125,000 at each philatelic outlet. Postage stock in excess of the above amount, up to \$250,000, may be authorized upon approval at the regional level and with Headquarters' concurrence. Existing regulations do not provide a specific limit on the total dollar amounts of philatelic items authorized, and provide no method for requesting approval of philatelic items in excess of \$125,000.

EFFECTIVE DATE: July 13, 1979.

FOR FURTHER INFORMATION CONTACT: Jo Elaine Anderson, 245-4434.

In 39 CFR 257.3 revise paragraph (e)(3)(v) to read as follows:

§ 257.3 Distribution and sale of stamps, postal stationery and philatelic products.

* * * * *

(e) Sales Policies * * *

(3) Philatelic Outlets * * *

(v) Stamp Credit (Accountability).

(A) Philatelic outlets should maintain a good working level of stamp stock, stationery, and philatelic products to encourage philatelic interest and to meet the needs of collectors. Therefore, postmasters may maintain a postage stock of up to \$125,000 for each philatelic outlet at their office. This stock may be in excess of normal authorized stock limits.

(B) If operating requirements necessitate postage stock in excess of \$125,000, written notification must be submitted to the appropriate Regional Retail Branch requesting special authorization. The Regional Retail Branch, with concurrence of the Regional Chief Postal Inspector, may authorize postage stock up to \$250,000. If approved at the regional level, the request should be forwarded for

Headquarters' concurrence to the Philatelic Marketing Division, Office of Consumer Marketing, Customer Service Department.

(C) The total amount of annual sales at the philatelic outlet must be included with any request for authorization to maintain a postage stock in excess of \$125,000 for that outlet. Such requests will be approved only when the total sales justify the increase in stock level.

(D) All clerks working in philatelic outlets will be fully accountable for their own stamp credit. It is the responsibility of the postmaster to provide adequate security equipment for secure storage of these credits at all times. This paragraph (e)(3)(v) of this section does not apply to the Philatelic Sales Branch.

(39 U.S.C. 401, 404.)

W. Allen Sanders,

Acting Deputy General Counsel.

[FR Doc. 79-18299 Filed 6-12-79; 8:45 am]

BILLING CODE 7710-12-M

POSTAL RATE COMMISSION

39 CFR Ch. III

[Order No. 284 Docket No. RM79-2]

Improving Government Regulations; Order of the Commission Amending Rules of Practice

June 7, 1979

AGENCY: Postal Rate Commission.

ACTION: Final Rules.

SUMMARY: Pursuant to its final plan for implementing Executive Order 12044, the Postal Rate Commission proposed two amendments to its rules of practice, one establishing procedures governing the Commission's *in camera* orders, the other changing the description of a costing report that the Postal Service is required to file periodically with the Commission. Public comment concerning these proposed amendments was solicited in an Advance Notice of Proposed Rulemaking (44 FR 2808, January 12, 1979) and a Notice of Proposed Rulemaking (44 FR 22479, April 16, 1979). No comments were received, and we have decided to adopt these amendments as initially published.

EFFECTIVE DATE: These amendments shall become effective July 13, 1979.

FOR FURTHER INFORMATION CONTACT: David F. Stover, Assistant General Counsel (Regulation), Suite 500, 2000 L Street, N.W., Washington, D.C. 20288; telephone 202-254-3830.

SUPPLEMENTARY INFORMATION: Executive Order 12044 (43 FR 12664, March 24, 1978) sets forth the President's

program for clarifying and improving government regulations. The Postal Rate Commission's final plan for implementing that executive order includes a procedure for annual review of its rules of practice. As the first step in that procedure, the Commission published an Advance Notice of Proposed Rulemaking in the Federal Register (44 FR 2606, January 12, 1979), inviting public comments on specific amendments proposed by the Commission governing voting procedures for final acts of the Commission, *in camera* orders, and a technical amendment to our rules concerning the costing reports that the Postal Service is required to file periodically with the Commission.

Subsequently, we severed the proposed amendment relating to voting requirements and adopted that proposal as a final rule (44 FR 7695, February 7, 1979). With respect to the two remaining proposed amendments, the Commission issued a Notice of Proposed Rulemaking Bearing Docket No. RM79-2 (44 FR 22479, April 16, 1979), inviting a second round of public comment. No comments were received in response to either notice. The Commission has decided, therefore, to adopt these two proposed amendments as initially published. Accordingly, pursuant to 39 U.S.C. 3603 and 5 U.S.C. 552a, it is ordered that the Commission's rules of practice and procedure (39 CFR 3001) be amended as follows, effective 30 days after publication of this notice in the Federal Register.

Part 3001 of 39 CFR is amended by adding the following new section:

§ 3001.31a In camera orders.

(a) *Definition.* Except as hereinafter provided, documents and testimony made subject to *in camera* orders are not made a part of the public record, but are kept confidential, and only authorized parties, their counsel, authorized Commission personnel, and court personnel concerned with judicial review shall have access thereto. The right of the presiding officer, the Commission, and reviewing courts to disclose *in camera* data to the extent necessary for the proper disposition of the proceeding is specifically reserved.

(b) *In camera treatment of documents and testimony.* Presiding Officers shall have authority, but only in those unusual and exceptional circumstances when good cause is found on the record, to order documents or oral testimony offered in evidence whether admitted or rejected, to be placed *in camera*. The order shall specify the date on which *in camera* treatment expires and shall

include: (1) A description of the documents and testimony; (2) a full statement of the reasons for granting *in camera* treatment; and (3) a full statement of the reasons for the date on which *in camera* treatment expires. Any party desiring, for the preparation and presentation of the case, to disclose *in camera* documents or testimony to experts, consultants, prospective witnesses, or witnesses, shall make application to the presiding officer setting forth the justification therefor. The presiding officer, in granting such application for good cause found, shall enter an order protecting the rights of the affected parties and preventing unnecessary disclosure of information. *In camera* documents and the transcript of testimony subject to an *in camera* order shall be segregated from the public record and filed in a sealed envelope, bearing the title and docket number of the proceeding, the notation "*In Camera* Record under § 3001.31a," and the date on which *in camera* treatment expires.

(c) *Release of in camera information.* *In camera* documents and testimony shall constitute a part of the confidential records of the Commission and shall be subject to the provisions of § 3001.42 of this chapter. However, the Commission, on its own motion without notice to any affected party, may make *in camera* documents and testimony available for inspection, copying, or use by any other governmental agency.

(d) *Briefing of in camera information.* In the submittal of proposed findings, briefs, or other papers, counsel for all parties shall make a good faith attempt to refrain from disclosing the specific details of *in camera* documents and testimony. This shall not preclude references in such proposed findings, briefs, or other papers to such documents or testimony including generalized statements based on their contents. To the extent that counsel consider it necessary to include specific details of *in camera* data in their presentations, such data shall be incorporated in separate proposed findings, briefs, or other papers marked "confidential," which shall be placed *in camera* and become a part of the *in camera* record.

The first sentence of paragraph (b) of § 3001.42 is amended to read as follows:

§ 3001.42 Public information and requests.

* * * * *

(b) *Public records.* Except as provided in § 3001.31a of this chapter, the public records of the Commission include:

39 CFR 3001.102(a)(2) is amended to read as follows:

§ 3001.102 Filing of reports.

(a) * * *

(1) * * *

(2) Cost Segments and Components.

By the Commission.

David F. Harris,

Secretary.

[FR Doc. 79-18379 Filed 6-12-79; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[FRL 1238-5]

Delayed Compliance Order for Sun Oil Company of Pennsylvania

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Sun Oil Company of Pennsylvania (Sun Oil). The Order requires the Company to bring air emissions from its marketing terminals at Cleveland, Dayton, Akron, Columbus and Toledo, Ohio into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Sun Oil's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATE: This rule takes effect on June 13, 1979.

FOR FURTHER INFORMATION CONTACT: Pierre Talbert, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On January 25, 1979, the Regional Administrator of U.S. EPA's Region V Office published in the Federal Register (44 FR 5160) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Sun Oil. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to Sun Oil by the Administrator of U.S. EPA pursuant to the authority of Section

113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places Sun Oil on a schedule to bring its marketing terminals at Cleveland, Columbus, Dayton, Akron and Toledo into compliance as expeditiously as practicable with Regulation AP-5-07, a part of the federally approved Ohio State Implementation Plan. Sun Oil is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Sun Oil to delay compliance with the SIP regulation covered by the Order until July 1, 1979.

Compliance with the Order by Sun Oil will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S.

EPA or after the Order is terminated. If the Administrator determines that Sun Oil is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Sun Oil on a schedule for compliance with the Ohio State Implementation Plan.

Authority—42 U.S.C. 7413(d), 7601.

Dated: June 5, 1979.

Douglas Costle,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

Part 65—Delayed Compliance Orders

1. By adding the following entry to the table in Section 65.400:

Section 65.400 Federal Delayed Compliance Orders issued under Section 113(d)(1), (3), and (4) of the Act.

65.400 Federal Delayed Compliance Orders

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Sun Oil Co., of Pennsylvania	Columbus	EPA-5-79-A-36	Jan. 25, 1979	AP-5-07	July 1, 1979.
	Cleveland	EPA-5-79-A-37	Jan. 25, 1979	AP-5-07	July 1, 1979.
	Akron	EPA-5-79-A-38	Jan. 25, 1979	AP-5-07	July 1, 1979.
	Dayton	EPA-5-79-A-39	Jan. 25, 1979	AP-5-07	July 1, 1979.
	Toledo	EPA-5-79-A-40	Jan. 25, 1979	AP-5-07	July 1, 1979.

[FR Doc. 79-18435 Filed 6-12-79; 8:45 am]

BILLING CODE 6560-01-M

Proposed Rules

Federal Register

Vol. 44, No. 115

Wednesday, June 13, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 2]

Study of Nuclear Power Plant Construction During Adjudication; Request for Public Comments

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comments.

SUMMARY: The Nuclear Regulatory Commission's Advisory Committee on Construction During Adjudication is studying several aspects of the Commission's licensing procedures. The Advisory Committee is seeking the views of the public on the Commission's "immediate effectiveness" rule (10 CFR 2.764). That rule provides that a construction permit can be issued on the basis of an initial decision of an Atomic Safety and Licensing Board even though that decision is subject to further review within the Commission. The Committee believes that the views of the public on the rule would be of help to it in evaluating the rule's operation and impact and in assessing possible changes for improving the licensing procedures.

DATES: Comments must be received by July 6, 1979.

ADDRESS: Send comments to: Secretary of the Commission, Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

Copies of all comments received may be examined in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Stephen S. Ostrach, Office of the General Counsel, Nuclear Regulatory Commission, Washington, D.C. 20555, (202) 634-3224.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission's Advisory Committee on Construction During Adjudication is seeking the views of the public on the Commission's

"immediate effectiveness" rule (10 CFR 2.764). The views of those who have participated in licensing proceedings in which the rule was significant are of particular interest. In addition to general views, the group wishes public comment on a number of specific questions about the rule. Comments must be received by July 6, 1979, and should be submitted to the Secretary of the Commission, Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch. Copies of all comments received may be examined in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555. Further information may be obtained from Stephen S. Ostrach, Office of the General Counsel, Nuclear Regulatory Commission, Washington, D.C. 20555, (202) 634-3224.

The Nuclear Regulatory Commission has established an Advisory Committee on Construction During Adjudication. The Committee is studying several aspects of the Commission's licensing procedures including, in particular, the Commission's "immediate effectiveness" rule (10 CFR 2.764). That rule provides that a construction permit can be issued on the basis of an initial decision of an Atomic Safety and Licensing Board even though that decision is subject to further review within the Commission.

The Committee believes that the views of the public on the rule would be of help to it in evaluating the rule's operation and impact and in assessing possible changes for improving the licensing process. The views of those who have actually participated in nuclear licensing proceedings in which the rule played a significant role are of particular interest to the group. The questions given below have been provided principally as an aid to those persons with actual experience in licensing proceedings, but they may be answered by any person. The group desires the views of parties associated with each of the different interests in licensing cases.

If each viewpoint on the rule is presented fully by these comments, the Committee will be able to formulate its recommendations to the Commission with confidence that it has taken into account a fair balance of all viewpoints. The questions concerning which

respondents views are desired are as follows:

1. In a general way, how were the proceedings in which you participated affected by the rule permitting construction during agency appellate review? If there had been no such rule during appellate review, how would the proceedings have been different?

2. Was the appellate resolution of any issue which you appealed prejudiced by ongoing construction during the pendency of the appeal?

3. If so, please state the case, issue and elaborate the details, citing specific references (i.e., briefs, decisions, transcripts, etc.) which you believe indicate such prejudice.

4. In these proceedings, how long after the issuance of a limited work authorization or a construction permit did the principal environmental impact of construction occur? How did the timing of this impact affect the proceeding? Should consideration be given to changing the order in which issues are decided (currently NEPA and site suitability first, safety second)?

5. Was a stay of construction sought pending appeal? Did construction during the pendency of the stay request affect the proceeding? If so, how? Was an evidentiary hearing held on the stay request? Did such hearing (or the lack thereof) affect the disposition of the request?

6. Was interlocutory review (certification or referral) sought during the proceeding? If interlocutory review had been available, would that review have improved the proceeding? Should consideration be given to adopting a standard for interlocutory review which would facilitate an early appellate decision on the inclusion or exclusion of issues in the proceeding?

7. The following are some possible alternatives to the present rules. What effect would these alternatives have had if they had applied to the proceedings in which you participated? Do you believe, based on your experience, that any of these alternatives should be adopted?

a. Delay effectiveness of Licensing Board decisions:

1. By 10 or 15 days, to allow parties to prepare stay motions for the Appeal Board.

2. Until the Appeal Board rules on any stay motion before it.

3. Until the Commission rules on a stay.

4. Until the Appeal Board rules on the merits.

5. Until the Commission rules on the merits.

[This last suboption would in effect repeal the immediate effectiveness rule.]

b. Restrict effectiveness to certain cases, in which immediate effectiveness is less likely to create problems. The following are examples:

1. The case is uncontested.

2. The decision is unanimous.

3. Applicant requests immediate effectiveness and no good is shown to delay.

4. Applicant shows urgency and no good cause is shown to delay.

5. The design is an approved standard design.

6. For custom plants, design definition is well along toward final design (meeting design status criteria which would be specified).

7. The case involves a subsequent unit for a site already approved for at least one unit.

8. The site has been reviewed and received final Commission approval.

c. Restrict the amount of work the applicant may do in reliance upon the Licensing Board's decision:

1. Up to some dollar limit on:

—total commitments, or

—site-dependent commitments.

2. To certain kinds of work (e.g., items which require long lead-time, or have low impact).

3. To exclude certain items, either because they would have high or irreparable environmental impact, or because they depend upon resolution of contested issues.

d. Allow initial decisions to become immediately effective only if the authorization or permit has certain conditions attached. For examples:

1. A requirement to restore the site if the favorable Board decision is ultimately reversed.

2. Conditions on the construction sequence or schedule (to limit environmental damage during appellate review and to safeguard against an applicant rushing to build up a sunk-cost case against later reversal).

e. Alter stay standards while leaving the immediate effectiveness rule in place. Following are examples of alternative standards:

1. Alter the burden of proof on stays.

2. Grant a stay when the Appeal Board confirms the existence of an important policy or legal issue appropriate for Commission review.

3. Make stay standards vary according to the issue on which appeal is taken:

(a) Environmental as contrasted with safety issues.

(b) Site-related issues.

f. Change appellate procedures so as to permit the Commission or the Appeal Board to reach certain issues earlier.

Following are examples of such changes:

1. Allow interlocutory appeals for issues (such as siting) which require decision.

2. Certify questions more frequently to the Appeal Board and the Commission.

3. Establish a mechanism for the Commission to monitor proceedings of lower boards.

4. Expedite decisions on issues affected by construction during adjudication.

8. It would also be helpful to have the public's views on aspects of the immediate effectiveness or stay rules which the above questions may not specifically address. If you are in favor of the present rules as they are now written, please give us your reasons. Also, please discuss any alternatives to or changes in the present immediate effectiveness rule (§ 2.764) or stay criteria (§ 2.788) which you feel may be appropriate.

Dated at Washington, D.C. this 8th day of

June 1979.

Gary Milhollin,
Chairman.

[FR Doc. 79-18366 Filed 6-12-79; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 125]

Procurement Assistance; Assistance to Small Business in Federal Contracting Programs

AGENCY: Small Business Administration.

ACTION: Proposed Rules.

SUMMARY: This proposed rule implements the Small Business Act as amended by Pub. L. 95-507 with respect to programs rendering assistance to small businesses in Federal prime and subcontracting. Additionally, it is designed to eliminate obsolete functions an unnecessary regulations while at the same time updating, simplifying, and clarifying the functions and activities currently operational in the various programs to assist small businesses pursuing and engaged in Federal contracting, other than that covered in Part 124 (The Small Business and

Capital Ownership Development Program).

DATES: Comments must be received on or before August 13, 1979.

ADDRESSES: Comments, submitted in duplicate are to be addressed to the Associate Administrator for Procurement Assistance, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Edward N. Odell, Deputy Director, Office of Procurement and Technical Assistance, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, telephone (202) 653-6332.

SUPPLEMENTARY INFORMATION:

Previously 13 CFR Part 124 contained rules and regulations covering programs designed to render management, technical, and procurement assistance. The latter included the business development program for companies owned and controlled by socially or economically disadvantaged individuals. To be in consonance with the organizational changes mandated by Pub. L. 95-507 amending the Small Business Act as well as to reflect internal administrative reorganizations, 13 CFR Part 124 was used to cover the business development program cited above. Management and some technical assistance programs regulatory coverage was designated as 12 CFR Part 129. Procurement Assistance is now being presented as 13 CFR Part 125.

The provisions contained in Part 124.8(b) 1 and 2 are now covered in Part 125.4, 6, 8 and 10. Part 124.8(b)3 has been eliminated as obsolete. Part 124.8(b)4 through 12 (excepting 124.8(b)6) are now contained in Part 125.6 through .9. Part 124.8(b)6 is properly part of the Size Standard Regulation and is covered in Part 121. The matter covered by Part 124.8-3 dealing with management assistance is properly located under Part 129. Part 124-5 and 6 have been eliminated as obsolete while Part 124.8-4, is now to be found under Part 125.6. Part 124.8-7 is covered in Part 129 entitled Management Assistance Part 124.8-7 through 17 is now contained in Parts 125-5 through 10. What was previously entitled "Part 125—Research and Development Assistance" is now covered under part 125.10. "Part 126—Defense Production Pools" is presented now under 125.7 "Part 127—Joint Set Asides" is covered in Part 125.6 and .8.

Notice is hereby given that pursuant to the authority contained in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, it is proposed to delete § 124.8-3 through § 124.8-17 from 13 CFR Part 124; to delete 13 CFR Parts 126 and

127 in their entirety; and to revise Part 125 of Chapter I, Title 13 of the Code of Federal Regulations, as set forth below.

Dated June 6, 1979.
William H. Mauk, Jr.,
Acting Administrator.

Revision 1

PART 125—PROCUREMENT ASSISTANCE

Sec.

125.1 Policy.

125.2 Definitions.

Procurement Assistance

125.3 Introduction.

125.4 Statutory Provisions.

Office of Procurement and Technical Assistance

125.5 Certificate of Competency.

125.6 Prime Contracts Assistance.

125.7 Defense Production Pools.

125.8 Property Sales Assistance.

125.9 Subcontracting Assistance.

125.10 Technology Assistance

Authority: Sec. 5, Small Business Act, 15 U.S.C. 634.

§ 125.1 Policy.

It is the policy of the United States that small concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency. The Small Business Administration will aid, counsel, and assist, insofar as is possible, small business concerns to insure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the Government (including but not limited to contracts or subcontracts for equipment, materials and supplies; maintenance, repair, construction and architect-engineer services; research, development, test and evaluation) are placed with small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to insure that a fair proportion of the total sales of Government property be made to such enterprises; and to maintain and strengthen the overall economy, well-being and security of the Nation.

§ 125.2 Definitions.

For purposes of this part:

(a) "Administrator" means the Administrator of the Small Business Administration.

(b) "SBA" means the Small Business Administration.

(c) "Small business" means a business which qualifies as a small business

under the small business size standards requirements, Part 121 of this chapter, and includes small concerns owned and controlled by socially and economically disadvantaged individuals under the definition thereof in Part 124 of this chapter.

(d) The terms "procurement" and "acquisition" are used interchangeably throughout.

(e) The term "Federal agency" as used herein does not include the U.S. Postal Service or the General Accounting Office.

(f) The term "Government procurement contract" means any contract for the procurement of any goods or services by any Federal agency.

Procurement Assistance

§ 125.3 Introduction.

The regulations in this part implement the Procurement Assistance Programs of the Small Business Administration. The Office of the Associate Administrator for Procurement Assistance establishes SBA policy for and issues directives to carry out the nationwide operation of (currently) five major programs: Certificate of Competency; Prime Contracts Assistance; Property Sales Assistance; Subcontracting Assistance; and Technology Assistance. The five programs are involved in aiding small business firms to obtain a fair share of Federal Government procurement contracts and subcontracts and Federal Government resources.

§ 125.4 Statutory Provisions Summarized.

SBA Procurement Assistance is authorized, as of the date of this regulation, under Sections 8(b) (15 U.S.C. 637(b)); 8(d) (15 U.S.C. 637(d)); 9 (15 U.S.C. 638); 11 (15 U.S.C. 640); (15 U.S.C. 643); 15 (15 U.S.C. 644); 222 (41 U.S.C. 405(a)); (40 U.S.C. 401 note); and 223(a) (15 U.S.C. 637(b)) of the Small Business Act, as amended.

(a) Section 8(b) authorizes the SBA—

(1) To provide procurement and technical assistance to small business concerns by advising and counseling on matters in connection with Government procurement (including certain Federal prime contractor procurements) and property disposal, and on policies, principles, and practices of Federal Government acquisition;

(2) To obtain from any Federal department, establishment or agency engaged in procurement, or in the financing of procurement or production, or in the disposal of Federal property, such reports concerning the letting of and compliance with contracts and subcontracts, solicitations of bids or

proposals, time of sale, or otherwise as it may deem appropriate in carrying out its functions under the Small Business Act, as amended;

(3) To certify to Government procurement officers, and officers engaged in the sale and disposal of Federal property with respect to all elements of responsibility, including but not limited to the competency, capability, capacity, credit, integrity, perseverance and tenacity, of any small business concern or group of such concerns to perform a specific Government contract;

(4) To review a Government procurement officer's finding that an otherwise qualified small business concern may be ineligible due to the provisions of Section 35(a) of Title 41, United States Code (the Walsh-Healey Public Contracts Act);

(5) To make a complete inventory of all productive facilities of small business concerns or to arrange for such inventory to be made by any other Governmental agency which has the facilities; and

(6) To assist small business concerns to obtain Government contracts for research and development; to assist small business concerns to obtain the benefits of research and development performed under Government contracts or at Government expense; to provide technical assistance to small business concerns to accomplish this purpose; and to insure that a fair proportion of Government contracts for research and development be placed with small business concerns.

(b) Section 8(d) authorizes the SBA—

(1) To review solicitations requiring the submission of subcontracting plans to determine the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate as subcontractors in the performance of any contract resulting from any solicitation, and submit findings which shall be advisory in nature to the appropriate Federal agency;

(2) To assist Federal agencies and businesses in complying with their subcontracting responsibilities (Section 8(d) of the Small Business Act, as amended) including the formulation of subcontracting plans for contracts to be let pursuant to the negotiated method of procurement;

(3) To obtain reports from Federal prime contractors and subcontractors demonstrating the extent of compliance with the contract provisions for small and disadvantaged subcontracting; and

(4) To evaluate compliance with subcontracting plans, either on a contract-by-contract basis, or in the case of contractors having multiple contracts, on an aggregate basis.

(c) Section 8(d) provides—

(1) That each Government procurement prime contract and any amendment or modification thereto, and each subcontract let thereunder, which may exceed \$1,000,000 in the case of construction projects or \$500,000 in every other case, except those which (i) will be performed entirely outside of any state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; (ii) are for personal services; or (iii) are awarded to small business concerns; shall contain a mandatory provision for timely submission by the apparent successful bidder or offeror of an acceptable subcontracting plan that reflects maximum practicable opportunities for participation by and utilization of, to the fullest extent consistent with efficient contract performance, small and small disadvantaged business concerns to perform subcontracts to be let thereunder;

(2) That any contractor or subcontractor who fails to comply in good faith with the mandatory subcontracting provisions of a Government procurement contract or subcontract thereunder shall be found in material breach of such contract or subcontract.

(d) Section 9 authorizes the SBA—

(1) To consult with and make recommendations to all Government agencies for the purpose of providing small business concerns assistance, including technical assistance, to obtain (i) Government contracts for research and development, and (ii) the benefits of research and development performed under Government contracts or at Government expenses; and to conduct studies, with the cooperation of Government agencies, of Government procurement or funding of research and development effort;

(2) To assist and encourage small business concerns to jointly undertake programs for research and development through such corporate or other mechanism appropriate for the purpose and to approve, after consultation with the Chairman of the Federal Trade Commission and with prior authorization of the Attorney General, any agreement between small business firms providing for such a joint program.

(e) Section 11 provides that small business concerns may be authorized and encouraged, if found to be in the

public interest as contributing to the national defense, to enter into voluntary agreements and programs to form Defense Production Pools for the purpose of furthering the objectives of the Small Business Act.

(f) Section 14 authorizes the SBA to make a fair charge for the use of Government-owned property as and to the fullest extent it deems practicable, and to make and let contracts on a basis that will result in recovery of the direct costs which it incurs in so doing.

(g) Section 15 provides—

(1) That small business concerns shall be awarded any Government procurement contract, or any part thereof, and any contract for the sale of Government property, as to which it is determined by the SBA and the procurement or disposal contracting agency to be in the interest of (1) maintaining or mobilizing the Nation's full productive capacity, (2) war or national defense programs, (3) assuring that a fair proportion of the total purchases and contracts for property and services for the Government are placed with small business concerns, or (4) assuring that a fair proportion of the total sales of Government property be made to small business concerns; and that any failure of the SBA and contracting agency to reach agreement shall cause the SBA Administrator to submit the matter to the Secretary or head of the appropriate department or agency for determination;

(2) That the head of each Federal agency will provide the SBA a report at the conclusion of each fiscal year on the extent of participation by small business concerns, and by small disadvantaged business concerns in procurement contracts, which report shall contain the rationale and justification for any failure by the Federal agency to meet established goals for review, consolidation and submission to the Select Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives;

(3) That separate goals for the participation by small business concerns and small disadvantaged business concerns in Government procurement contracts shall be established annually by the head of each Federal agency following consultation with the SBA, and that the Administrator of the Office of Federal Procurement Policy shall establish the goal whenever there is disagreement between a Federal agency head and the SBA;

(4) That exclusive small business set-asides are authorized for Government procurements or architect and

engineering services, and research, development, test and evaluation;

(5) That each Government contract for procurement of goods or services which has an anticipated value of less than \$10,000 and is subject to small purchase procedures shall be set aside exclusively for small business concerns unless the contracting officer is unable to obtain competitive offers from at least two small business concerns;

(6) That a method of prompt payment to contractors which also minimizes paperwork shall be employed whenever circumstances permit for Government procurement contracts effected under small purchase procedures;

(7) That an "Office of Small and Disadvantaged Business Utilization" shall be established in each Federal agency having procurement powers, and that management of such office shall be vested in an employee of each such agency who shall be known as the "Director of Small and Disadvantaged Business Utilization" and who shall—

(i) Be appointed by the head of such agency, and be responsible only to, and report directly to, the head of such agency or to his deputy;

(ii) Be responsible for implementation and execution of the Federal agency's functions and duties under Sections 8 and 15 of the Small Business Act as amended, and have supervisory authority over such agency personnel to the extent of their functions and duties thereunder;

(iii) Cooperate and consult on a regular basis with the SBA relative to carrying out the Federal agency's functions and duties under Sections 8 and 15 of the Small Business Act, as amended; and

(iv) Assign to each acquisition activity within such Federal agency to which the SBA has a procurement center representative assigned, a small business technical advisor (A) who shall be a full-time employee of the activity and well-qualified, technically trained, and familiar with the supplies or services purchased at the activity, and (B) whose principal duty shall be to assist the assigned SBA procurement center representative in carrying out his duties and functions relating to Sections 8 and 15 of the Small Business Act, as amended.

(h) Section 222 of Pub.L. 95-507 provides—

(1) That in formulating Federal procurement procedures which govern the acquisition process for all Government procurement requirements, the Administrator of the Office of Federal Procurement Policy shall, in consultation with the SBA, conduct

analyses of the impact on small business concerns;

(2) That the forthcoming Federal Acquisition Regulation directed by Public Law 93-400 incorporate revised Government procurement regulations which provide for simplified bidding, contract administration, and contract performance procedures for small business concerns.

(i) Section 223(a) of Pub. L. 95-507 provides that any small business concern shall be provided upon its request, in connection with any Government procurement contract to be let by any Federal agency, except in the case of a contract which will be performed entirely outside any state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico, or which is for personal services—

(1) The applicable bid set and specifications;

(2) The name and telephone number of an employee of such agency to answer questions with respect to such contract; and

(3) Adequate citations to each major Federal law or agency rule with which small business concerns must comply in performing such contract.

Office of Procurement and Technical Assistance

§ 125.5 Certificate of competency program.

The Certificate of Competency (COC) Program is authorized under Sections 8(b)(7)(A), (B), and (C) of the Small Business Act. A COC is a written instrument issued by SBA to a Government contracting officer, certifying that a small concern (or group of such concerns) named therein possesses the responsibility to perform a specific Government procurement (or sale) contract.

(a) Government procurement officers and officers engaged in the sale and disposal of Federal property, upon determining and documenting that a small business lacks certain elements of responsibility, including but not limited to competency, capability, capacity, credit, integrity, perseverance, and tenacity, notify SBA of such determination. Award is withheld by the contracting officer for a period of up to 15 working days following the date of receipt by SBA of notice of such determination (with appropriate documentation) in order to permit SBA to investigate the elements referred and certify as to the bidder's responsibility with respect to the elements referred.

(b) Upon receipt of this notification, SBA personnel then contact the company concerned to inform it of the impending decision and to offer an opportunity to apply to SBA for a COC. A concern wishing to apply to SBA for a COC advises the SBA regional office for the geographic area within which the concern is located. Upon timely receipt of required documentation, a team of SBA personnel is sent to the firm to investigate the responsibility of the applicant as to the specific elements of responsibility referred to SBA and make recommendations to the regional director.

(c) If the regional director's decision is negative, the COC is denied and both the firm and procuring activity are notified. If the regional director's decision is affirmative and the procurement is less than \$500,000, the regional director issues a COC. For procurements in excess of \$500,000, if the regional director recommends issuance of the certificate, the Associate Administrator for Procurement Assistance, SBA Central Office, causes a review to be made and either issues or denies the certificate. If the Associate Administrator's decision is negative, the firm and procuring activity are so informed; if affirmative, a letter, certifying the responsibility of the firm as to the elements of responsibility referred (the Certificate of Competency) is sent to the procuring activity and the applicant informed of such issuance by the regional office. By terms of the Small Business Act, as amended, the COC is conclusive as to responsibility. Contracting officers are directed to award a contract without requiring the firm to meet any other requirement with respect to responsibility.

(d) The notification to an unsuccessful applicant concern will briefly state the reason for denial and inform the applicant that a meeting may be requested with the appropriate SBA regional personnel to discuss the reasons for denial. Upon receipt of a request for such a meeting, the appropriate regional personnel will confer with the applicant and explain fully the reasons for SBA's action. However, such conference will be for the sole purpose of enabling the applicant to improve or correct deficiencies and will not constitute a basis for reopening the case in which the certificate was denied.

(e) After a COC is awarded for capacity or credit and the contract is let to the applicant, SBA keeps a close watch on the progress. Monthly checks are made by SBA field personnel who report directly to the Central Office on

the status of the contract. In this way SBA technical assistance is constantly available to the contractor.

(f) A manufacturing, construction or service concern shall not be eligible for a COC unless it performs a significant portion of the contract with its own facilities and personnel to assure SBA that the bidder is a manufacturing, construction or service concern.

(g) An independent small business dealer, distributor or wholesaler shall be eligible for a COC only when it is responding in its own name to a non-set-aside procurement, and the items to be furnished under the contract will be manufactured in the United States, and the small non-manufacturer alone bears the responsibility for success or failure in supplying those products. In the event of a tie bid, preference shall be given to the concern supplying the product of a small business. Should the product of a large business be supplied, that product and the responsibility of the manufacturer must be acceptable to the procuring activity. The responsibility of the small business dealer is certified, not the manufacturer.

(h) A Government procurement officer documenting that a small concern is ineligible due to the provisions of Section 35(a) of Title 41, U.S.C. (the Walsh-Healey Public Contracts Act) notifies SBA of such determination. SBA may certify that the concern is eligible for the specific contract or concur with the finding of ineligibility and refer the matter to the Secretary of Labor for final disposition. Brokers are not eligible for a COC.

(i) SBA by law issues a certification on the basis that officers of the Government having procurement or property disposal powers are directed to accept such certification as conclusive, and shall let the contract to such concern without requiring it to meet any other requirement of responsibility or eligibility.

§ 125.6 Prime contracts assistance.

In accordance with specific provisions of the Small Business Act, as amended, the Small Business Administration, develops, establishes and implements programs to increase the share of Government prime contracts awarded to small business concerns, including small business concerns owned and controlled by socially and economically disadvantaged individuals; to assist those small business firms having procurement and contract administration problems involving the Federal acquisition agencies; and to assist such concerns to form small business production or research and

development pools. Federal acquisition regulations and instructions serve as the procedural vehicle for implementation of the Government's small and small disadvantaged business acquisition policy as declared in the Small Business Act. The effort to increase prime contract awards to small and small disadvantaged business concerns is concentrated in the early stages of the procurement cycle. The SBA has procurement center representatives stationed at Federal installations which have major buying programs. SBA procurement center representatives accomplish their mission in coordination with small business specialists, and with small business technical advisers assigned to Federal acquisition activities, whose principal duties include responsibility for assisting SBA procurement center representatives in the performance of all prime contracting assistance duties and functions emanating from the Small Business Act, as amended. The SBA Prime Contracts Assistance Program is designed to cause the procurement center representatives to carry out the following functions in connection with the acquisition of Federal procurement requirements:

(a) Represents the SBA in all Prime Contracts Assistance matters at Federal acquisition installations;

(b) Screen proposed Government procurements which the acquisition agencies' contracting officials and small business specialists or small business technical advisors do not recommend, including those recommended initially but later withdrawn, for small business set-asides, and small business labor surplus area set-asides, as appropriate, for possible set-aside action, either partial or total, by the SBA. In appropriate instances, appeal SBA initiated set-asides denied by the heads of acquisition activities to the secretary of the department or head of the agency through the Associate Administrator for Procurement Assistance, SBA Central Office;

(c) Represents the entire small business community to the Federal acquisition agencies and initiate activities necessary to provide an optimum climate for participation in the Government's contracting system;

(d) Review regulations and instructions of Federal acquisition agencies and activities for potential impact on small and small disadvantaged business concerns involved in Government procurement, and make recommendations through the Associate Administrator for Procurement Assistance for resolutions of provisions deemed prejudicial to small

or small disadvantaged business concerns at the highest necessary levels of the acquisition agencies;

(e) Review and evaluate the small business programs of individual Federal acquisition activities, and make recommendations either directly to the activities or through the Offices of Procurement and Technical Assistance, SBA Central Office, to the Federal department or agency which, when implemented, improve program effectiveness and results;

(f) Recommend potential small and small disadvantaged business sources for the contracting agencies' use in their procurement solicitations;

(g) Assist the acquisition agencies and activities in establishment of goals for awards to small business concerns and to small business concerns owned and controlled by socially and economically disadvantaged individuals, and periodically report progress toward attainment thereof to the Associate Administrator for Procurement Assistance, SBA Central Office;

(h) Sponsor and participate in conferences and training courses, public and Government, designed to provide information and counsel to increase small and small disadvantaged business participation in Government procurement;

(i) Establish local operating procedures at and in conjunction with individual acquisition activities, within policy guidelines and direction of the Associate Administrator for Procurement Assistance, SBA Central Office, designated to efficiently and effectively utilize Federal agency small business technical advisors in the discharge of their statutory responsibility and performance of their principal duty to assist SBA procurement center representatives in achieving the congressional objective of providing maximum procurement opportunities for small and small disadvantaged business concerns;

(j) Advise, counsel and assist small and small disadvantaged business concerns which are having procurement or contracting problems with an acquisition or contract administration activity;

(k) Advise and guide small and small disadvantaged businesses in doing business with the Government;

(l) Counsel small and small disadvantaged businesses on how to prepare and submit bids and proposals, and obtain prime contracts and subcontracts;

(m) Assist small and small disadvantaged businesses in getting their names placed on bidders' lists, and

in obtaining drawings and specifications for proposed purchases, and offer related services, which include supplying leads on research and development projects;

(n) Review terms, conditions and specifications of solicitations for bid or proposal offerings to ascertain, insofar as possible, that maximum contract and subcontract opportunities are afforded to small and small disadvantaged business concerns as required by the Small Business Act, as amended;

(o) Coordinate, as possible, with contracting officials in determining acceptability of proposed subcontracting plans to provide maximum practicable opportunities for small and small disadvantaged businesses; and advise the head of the acquisition activity and the Associate Administrator for Procurement Assistance, SBA Central Office, in cases of disagreement with contracting officials;

(p) Identify procurement requirements for potential 8(a) contracting action by officials of the Associate Administrator for Minority Small Business and Capital Ownership Development as a result of screening Government procurement requisitions.

§ 125.7 Defense production pools.

(a) Defense Production Pools, which involve the voluntary pooling of small business concerns, are authorized for the purpose of furthering the objectives of the Small Business Act. Such pools, if their pooling agreements are approved, enjoy certain immunities from the antitrust laws and the Federal Trade Commission.

(b) An approved pool is treated the same as any other bidder or contractor for procurement purposes. A member company of a pool is not precluded from submitting bids or proposals on other procurements but its bid or proposal will not be considered if it has participated in a bid or proposal submitted by its pool. However, the existence of a production pool agreement may affect the responsibility of a pool member company in the consideration of its individual bid or proposal.

(c) To qualify as a pool, the group members must:

(1) Associate for the purpose of procuring contracts—or to effectuate the purposes of the Small Business Act;

(2) Enter into a pool agreement controlling their organization, relationship and procedures;

(3) Secure approval under either the Defense Production Act or the Small Business Act

(d) Bids or proposals of an approved pool may be submitted by the pool in its

own name or by an individual member if the bid or proposal specifies that it is made on behalf of the pool. If a bid is not so submitted, it is not eligible for award. Contracting officers may rely upon a copy of the SBA notification of approval as proof of such approval.

(e) Unincorporated pools, before award of a contract, must furnish a certified copy of a Power of Attorney from each member who is to participate in the performance of the contract. The Power of Attorney must designate an agent to execute the bid, proposal, or contract for the member.

(f) Any group of small business concerns which wishes to form a pool should request the SBA district office to arrange a meeting. The names and addresses of all such concerns which are considering participation in the pool shall be provided to SBA along with information as to the kinds of businesses in which they are engaged, and the name of a representative of each participant who should be invited to the initial meeting to be held at the SBA district office. The purpose of the meeting is to explore, with the SBA representative, the desirability of forming a pool, the proposed plan of operation and related matters.

§ 125.8 Property sales assistance.

The Property Sales Assistance Program is authorized under Sections 2(a), 8(b), 10(f), and 15 of the Small Business Act.

(a) Pursuant to the statutory requirements of the Small Business Act, the Small Business Administration is charged to insure that small business concerns obtain a fair share of all Federal real and personal property which qualifies for sale or other competitive disposal action. The basic purpose of the program is:

(1) To insure small business concerns obtain a fair share of Government property sales/leases to include, where necessary, small business set-asides;

(2) To provide aid, counsel and other available assistance to small business concerns on all matters pertaining to Government sales/leases.

(b) The Property Sales Assistance Program and its implementation were designed to assure small business the opportunity to bid competitively on Government property being sold or leased. Interagency agreements have been formalized with the Departments of Agriculture, Interior and Defense, and the General Services Administration to provide for cooperative effort in setting aside certain sales of Government property for exclusive bidding by small business concerns.

(c) Specific areas of Government property included in the Property Sales Assistance Program are:

(1) Timber and related forest products;

(2) Strategic material from national stockpiles;

(3) Royalty oil and leases involving rights to minerals, oil, gas, vegetation; and

(4) Excess and surplus real and personal property primarily from GSA and DOD sources.

(d) The Property Sales Assistance Program is directed by Central Office staff management and assigned industrial specialists with posts of duty at key geographic locations throughout the United States. SBA property sales industrial specialists are charged with the specific, primary responsibility to monitor all Federal timber sales and to require, if necessary, joint set-asides as proposed timber sales to insure a "fair proportion" of sales are offered to small businesses. Specific procedures for determining a "fair proportion" are in accordance with appropriate interagency agreements. Guidelines pertaining to timber sales are further outlined in § 121.3-9. To insure that set-aside timber is processed by small business, the provisions of § 121.3-9(b) require that the purchasers of preferential Government timber sales agree to the following:

(1) If the timber is being purchased for resale, that it will not sell more than 30 percent (50 percent in Alaska) of the preferential timber to concerns not meeting SBA's small business size standard; and

(2) If the timber is being purchased for manufacture, that it will do so with its own facilities or those of concerns that qualify as small business.

(e) At the time the contract for the sale of Federal timber is executed, the selling agency requires execution of SBA Form 723, "Small Business Certification Required on all Preferential Sales of Set-Aside Timber," which becomes a part of the sales contract.

(f) A concern that violates the provisions of a preferential set-aside sale agreement may be subject to:

(1) Cancellation of timber sale contract or contracts that have been breached;

(2) Debarment from participating in future Federal timber sales;

(3) Disqualification from participating in future Federal timber sales set aside for small business; and

(4) Criminal proceedings.

(g) When it brought to the attention of SBA that a purchaser of set-aside timber or logs has appeared to violate the 30 percent (50 percent in Alaska) clause in

the size standard for disposal of timber or sawlogs, the industrial specialist, when necessary, shall investigate the circumstances immediately. The purpose of the investigation shall be to ascertain whether said person or concern sold set-aside logs to other than small business in excess of the 30 percent allowable under the size standard regulations.

(h) The program's past efforts have stressed small business involvement primarily in the timber and royalty oil areas. Under the expanded, more fully developed Property Sales Assistance Program, increased emphasis is placed on the following key areas:

(1) Closer definition of small business constituency which qualify for assistance, and establishment of an inventory of related firms and their capabilities;

(2) Expanded negotiations with various Federal departments and agencies involved to establish specific small business set-aside programs, and to develop mutual operating procedures, as necessary, to monitor set-aside implementation and progress; and

(3) Increased development of energy information relating to mineral leasing and set-asides and access thereto as required for counseling, programming and other assistance to small concerns involved or contemplating involvement in the energy field.

§ 125.9 Subcontracting assistance program.

The Subcontracting Assistance Program is authorized under Sections 2(a), 8(b)(2), 8(b)(3), 8(b)(5), 8(c), 8(d)(1) through 8(d)(11), and 10(f) of the Small Business Act, as amended.

(a) Pursuant to statutory authorities and requirements of the Small Business Act, as amended, it is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals, shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency. Participation in performance is defined to mean subcontracted goods or services under Federal agency prime contracts.

(b) The Small Business Administration has subcontract specialists throughout the Nation who may assist small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals in subcontracting opportunities. Federal prime contracts in excess of \$10,000 shall contain the clause entitled "Utilization of Small Business Concerns

and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals."

(c) Federal agency prime contracts in excess of \$1,000,000 for construction and \$500,000 for all others which offer subcontracting possibilities must contain a subcontracting plan. Small business prime contractors are excluded. Each subcontracting plan required shall include:

(1) Percentage goals (expressed in terms of total planned subcontracting) for the utilization as subcontractors of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals;

(2) The name of an individual within the employ of the offeror or bidder who will administer the subcontracting program of the offeror or bidder and a description of the duties of such individuals;

(3) A description of the efforts the offeror or bidder will take to assure that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals will have an equitable opportunity to compete for subcontracts;

(4) Assurances that the offeror or bidder will include the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" in all subcontracts which offer further subcontracting opportunities, and that the offeror or bidder will require all subcontractors (except small business concerns) who receive subcontracts in excess of \$1,000,000 in the case of a contract for construction of any public facility, or in excess of \$500,000 in the case of all other contracts, to adopt a plan meeting the basic requirements of the prime contractor's subcontracting plan;

(5) Assurances that the offeror or bidder will submit such periodic reports and cooperate in any studies or surveys as may be required by the Federal agency or the Small Business Administration in order to determine the extent of compliance by the offeror or bidder with the subcontracting plan; and

(6) A recitation of the types of records the successful offeror or bidder will maintain to demonstrate procedures which have been adopted to comply with the requirements and goals set forth in this plan, including the establishment of source lists of small business concerns and small business concerns owned and controlled by

socially and economically disadvantaged individuals; and efforts to identify and award subcontracts to such small business concerns.

(d) The failure of contractor or subcontractor to comply in good faith with the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" or any required subcontracting plan in its contract or subcontract shall be a material breach of such contract or subcontract.

(e) The Small Business Administration is authorized to assist Federal agencies and businesses in complying with their responsibilities under subcontracting plans. The SBA may review any solicitation for any contract to be let, which would require a subcontracting plan, to determine the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate as subcontractors in the performance of any contract resulting from any solicitation, and submit its findings, which shall be advisory in nature, to the appropriate Federal agency.

(f) The Small Business Administration will evaluate compliance with subcontracting plans, either on a contract-by-contract basis, or in the case of contractors having multiple contracts on an aggregate basis. In the case of aggregate evaluation of contract plans, a statistical sampling of contracts will be performed to determine compliance or non-compliance. All cases of non-compliance will be referred by SBA regional offices with recommendations for Central Office final decision. Evaluation for compliance will be based upon the complete terms of the contract subcontracting plan. Due to the length of the contract, performance periods and the point of evaluations, compliance or non-compliance may either be interim or final.

(g) At the conclusion of each fiscal year, SBA shall submit to the Senate Select Committee on Small Business and the Committee on Small Business, House of Representatives, a report on subcontracting plans found acceptable by any Federal agency which SBA determines do not contain maximum practicable opportunities to participate in the performance of the contract. In addition, the report will furnish information concerning subcontracting plans found to be in non-compliance.

(h) *Program Operation.* To carry out the Subcontracting Assistance Program,

SBA subcontracting specialists are located in regional and district offices throughout the Nation.

(1) Program assistance directly available to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals from SBA personnel is as follows:

(i) Counseling representatives of firms interested in and capable of supplying Government procurement requirements on a subcontract basis;

(ii) Information and assistance on how to develop subcontract opportunities, and in obtaining currently available projects;

(iii) Information concerning subcontract opportunities for selected items, equipment and services being procured by the Government through large business prime contractors and major subcontractors;

(iv) Information and assistance on qualifications required to become eligible for inclusion on potential source listings of large business firms for future subcontract requirements;

(v) Names, addresses and telephone numbers of large business procurement representatives.

(2) SBA subcontract specialists perform the following additional duties:

(i) Assist large business, Government prime contractors and subcontractors, if requested and to the extent of available resources, in the compliance and formulation of contractually required subcontracting plans through the furnishing of potential sources;

(ii) Review subcontracting plans submitted by large business firms to Government contracting officials for approval and inclusion in major prime contracts and subcontracts;

(iii) Evaluate compliance by large business concerns with subcontracting plans incorporated into and made a material part of major prime contracts and subcontracts;

(iv) Evaluation of compliance by all concerns in their adherence to the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals";

(v) Recommend potential small and disadvantaged business sources to large business firms and to Government officials for performance of subcontract requirements under major Government contracts and subcontracts;

(vi) Maintain liaison with and visit large business Government prime contractors and subcontractors to assist, where requested and possible with available resources, in long term

procurement plans for the purpose of encouraging increased utilization of small and disadvantaged business concerns as subcontractors;

(vii) Review and evaluate subcontracting regulations, procedures, policies, and instructions for impact on small and disadvantaged business;

(viii) Participate in conferences and training courses, public and Government, which provide information and counsel directed at increased small and disadvantaged business participation in subcontracting for Federal procurement requirement.

(3) The Associate Administrator for Procurement Assistance monitors performance, evaluates effectiveness and issues directives to implement the Subcontracting Assistance Program field operations. Management of the program is accomplished through:

(i) Establishment of program policy and procedural guidance and direction of SBA subcontracting specialists for daily interface with Government and industry officials at the field level to accomplish program objectives;

(ii) Studies and surveys conducted of the methods and practices employed by large business Government prime contractors and subcontractors;

(iii) Review and analysis of subcontracting plan compliance evaluation reports developed by SBA subcontracting specialists and reported to the Associate Administrator for Procurement Assistance; and

(iv) Compile the required reports to Congress.

(i) Procurement Automated Source System.

The SBA maintains an active Procurement Automated Source System (PASS) which is the primary basis for recommending potential small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals as sources for both prime and subcontracting. The PASS is a nationwide computerized storage and retrieval bank. Concerns desirous of being included in the PASS should obtain SBA Form 1167, "PASS Company Profile," from the nearest SBA branch, district, or regional office. Instructions for filing are conveniently printed on form 1167. If assistance should be required, it can be obtained from SBA field offices. The computerized inventory of small and disadvantaged business concerns is used to make referrals for procurements to assist those concerns in being placed on appropriate bidders' lists and for mobilization purposes, if required. Potential procurement opportunities

may be local or nationwide. Once registered in the system, the company must update its data once a year to remain in the system. Potential sources may be obtained by small and large business and Government agencies.

§ 125.10 Technology assistance program.

(a) Section 9(a) of the Small Business Act states: "Research and Development are major factors in the growth and progress of industry and the national economy. The expense of carrying on research and development programs is beyond the means of many small business concerns, and such concerns are handicapped in obtaining the benefits of research and development programs conducted at Government expense. These small business concerns are thereby placed at a competitive disadvantage. This weakens the competitive free enterprise system and prevents the orderly development of the national economy. It is the policy of the Congress that assistance be given to small business concerns to enable them to undertake and to obtain the benefits of research and development in order to maintain and strengthen the competitive free enterprise system and the national economy."

(b) Section 9(b) states: "It shall be the duty of the Administration (SBA), and it is hereby empowered—

"(1) To assist small business concerns to obtain Government contracts for research and development;

"(2) To assist small business concerns to obtain the benefits of research and development performed under Government contracts or at Government expense; and

"(3) To provide technical assistance to small business concerns to accomplish the purposes of this section."

(c) Section 9(c) states: "The Administration is authorized to consult and cooperate with all Government agencies and to make studies and recommendations to such agencies, and such agencies are authorized and directed to cooperate with the Administration in order to carry out and to accomplish the purposes of this section."

(d) *Research and Development (R&D) Procurement Assistance.* (1) SBA will identify and register the capabilities of small R&D firms interested in Government contract opportunities. The procedure for cataloging the pertinent information on these firms will be through registration in the PASS. PASS is a computerized system designed to be instantaneously responsive to the requests of Government agencies for the profiles of small firms that would be

potential bidders on Government contracting opportunities. SBA will publish an annual directory of R&D firms contained in the PASS, and make appropriate distribution of this directory. SBA will periodically convene conferences with small R&D firms and other Federal agencies for the purpose of increasing the share of Government R&D contracts awarded to small business.

(2) *Procedure.* Small business concerns desiring to register in the PASS program should contact the nearest SBA field office and request a PASS Company Profile Form. The completed profile should be forwarded to the cognizant SBA regional office as described in the registration instructions. Registration in the PASS program is a no-charge service for participating firms.

(e) *Technology Transfer.* (1) SBA, within existing resources, will assist small firms by identifying and transferring applicable and available technology for purposes which may include product development, process improvement, problem-solving, or state-of-the-art information.

(2) *Procedures.* (a) Small business firms may request technology assistance at any SBA district or regional office. The majority of requests come from small business firms as a result of SBA information flyers which describe the services available. The Reader Service portion of the information flyer is completed by the small firm and forwarded to SBA for action.

(b) SBA will make every effort to respond initially to these requests within 30 days. Whenever possible, this response will be in the form of personal or telephone contact with the appropriate individual at the requesting firm.

(c) Where necessary SBA will assist the firm to clearly and adequately define the problem or request for technical information.

(d) SBA will locate the requisite technology and provide it to the requesting firm.

[FR Doc. 79-18334 Filed 6-12-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[22 CFR Part 6a]

[Docket No. SD-146]

Privacy Act Policies and Procedures

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to amend Part 6a of Title 22 of the Code of Federal Regulations by exempting portions of a record system from certain provisions of the Privacy Act of 1974 (5 U.S.C. 552a). In addition to a previously-published amendment to exempt the records of the Special Assignments Staff, the Department finds it necessary to also exempt the records of the Command Center, both of which are described in the Security Records (STATE-36), from the provisions of subsection (c)(3); (d); (e)(1); (e)(4)(G), (H), (I); and (f).

DATES: Comments must be received on or before July 13, 1979.

ADDRESS: Send comments to the Chief of the Privacy Staff, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: Sharon B. Kotok, (202) 632-1267.

SUPPLEMENTARY INFORMATION: The Department has found it necessary to exempt from disclosure records compiled and maintained by the Special Assignments Staff, previously published in the Federal Register (SD-138, 43 FR 46048, October 5, 1978). Records compiled and maintained by the Command Center, which are included among the Security Records (STATE-36), should also be exempt from certain provisions of the Act. Pursuant to subsection (j)(2) of the Privacy Act, the Department intends to exempt the records of the Special Assignments Staff in order to assure effective investigative and judicial proceedings in criminal cases. The Special Assignments Staff conducts criminal and counterintelligence investigations, as well as investigations to determine suitability for continued employment. The Department also intends to exempt the records of the Command Center under subsection (j)(2). This will assure the Department's ability to provide adequate protection to the Secretary of State and his family, high-ranking U.S. Government officials, and visiting foreign dignitaries. The Department's Command Center coordinates all activities of the protective branch of the Office of Security. In addition, the Command Center maintains records concerning domestic and foreign terrorist activities, as well as individuals and organizations which may pose a threat to the Department's protectees. If the records of the Special Assignments Staff and Command Center were not exempt from disclosure under the provisions of the Privacy Act, the Department's ability to provide investigative and protective services

would be seriously impaired. The Department of State therefore proposes to amend its Privacy Act regulations as set forth below.

1. In § 6a.6, paragraph (h) will be amended to read as follows:

§ 6a.6 Exemptions.

* * * *

(h) Records originated by another agency when that agency has determined that the record is exempt under 5 U.S.C. 552a(j). Also, pursuant to section (j)(2) of the Act, records compiled by the Command Center, the Passport and Visa Fraud Branch, and the Special Assignments Staff, all of which are components of the Office of Security, may be exempt from the requirements of any part of the Act, except subsections (b); (c)(1) and (2); (e)(4)(A) through (F); (e)(6), (7), (9), (10), and (11); and (i), to the extent necessary to assure the effective completion of the protective, investigative, and judicial processes.

* * * *

(Sec. 4 of the Act of May 26, 1949, as amended (63 Stat. 111; 22 U.S.C. 2858); Pub. L. 93-579 (88 Stat. 1894); (5 U.S.C. 552a))

Dated: June 7, 1979.

For the Secretary of State.

Ben H. Read,

Under Secretary for Management.

[FR Doc. 79-16373 Filed 6-12-79; 8:45 am]

BILLING CODE 4710-05-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[24 CFR Part 1917]

[Docket No. FI-5519]

Proposed Flood Elevation Determinations for the Township of Chatham, Morris County, N.J., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Chatham, Morris County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the

community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Municipal Building, Southern Boulevard, Chatham, New Jersey.

Send comments to: Honorable Dorothy A. Willis, Mayor, Township of Chatham, Municipal Building, Southern Boulevard, Chatham, New Jersey 07928.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Chatham, New Jersey, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Passaic River.....	Mount Vernon Avenue*	205
	Central Avenue (Fairmont Avenue) (50 feet)**.	212
	Snyder Avenue*	214

*Centerline.

**Upstream from centerline.

(National Flood Insurance Act of 1968 [Title XIII of Housing and Urban Development Act of 1968], effective January 28, 1969 [33 FR 17804, November 28, 1968], as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 1, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-18157 Filed 6-12-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

[Docket No. FI-5520]

Proposed Flood Elevation Determinations for the Town of Ellery, Chautauqua County, N.Y., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Ellery, Chautauqua County, New York.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the

flood-prone areas and the proposed base (100-year) flood elevations are available for review at the office of the Town Clerk, Jamestown, New York. Send comments to: Mr. Arden Johnson, Town Supervisor of Ellery, Box J, Bemus Point, New York 14712.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Ellery, Chautauqua County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 [Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)], 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chautauqua Lake.....	Shore Line.....	1,310
Bemus Creek.....	Confluence of Chautauqua Lake.....	1,310
	Main Street (Upstream).....	1,318
Dutch Hollow Creek.....	Confluence of Chautauqua Lake.....	1,310
	Old Route 17 (Upstream).....	1,328
Maple Springs Creek.....	Confluence of Chautauqua Lake.....	1,310
	Chautauqua Avenue Upstream.....	1,315
	Route 17 Upstream.....	1,325

(National Flood Insurance Act of 1968 [Title XIII of Housing and Urban Development Act of 1968], effective January 28, 1968 [33 FR

17804, November 28, 1968], as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: June 1, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-18158 Filed 6-12-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

[Docket No. FI-5521]

Proposed Flood Elevation Determinations for the City of Maumee, Lucas County, Ohio, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Maumee, Lucas County, Ohio.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 410 Conant Street, Maumee, Ohio 43537. Send comments to: The Honorable Arthur W. Buffington, Mayor, City of Maumee, City Hall, 410 Conant Street, Maumee, Ohio 43537.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

¹The functions of the Federal Insurance Administration Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

notice of the proposed determination of base (100-year) flood elevations for the City of Maumee, Lucas County, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Holman ditch	Just upstream of Ohio Turnpike.	623
	Just upstream of Dussel Drive.	627
	Just upstream of Chesterfield Lane.	629
	Just downstream of Conant Street.	631
Graham ditch	Just upstream of Ohio Turnpike.	624
	Just upstream of Ohio Turnpike Access ramps.	626
	Just upstream of Holland Road.	628
	Just downstream of Salisbury Road.	629

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority of Federal Insurance Administrator, 44 FR 20963).

Issued: June 1, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-18159 Filed 6-12-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

[Docket No. FI-5127]

Proposed Flood Elevation Determinations for the City of Trotwood, Montgomery County, Ohio, Under the National Flood Insurance Program; Correction

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 44 FR 6940 of the Federal Register of February 5, 1979.

EFFECTIVE DATE: February 5, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary A	500 feet upstream from mouth.	850
Dry Run	East-West corporate limit	836
Tributary G	Limit of flood 250 feet upstream of northern corporate limit.	867

Should be corrected to read:

Tributary A	500 feet upstream from mouth.	848
Dry Run	2,575 feet upstream of the confluence of Tributary E.	836
Tributary G	250 feet upstream of northern corporate limit.	867

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 1, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-18168 Filed 6-12-79; 8:45 am]

BILLING CODE 4210-23-M

¹ The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3, of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[24 CFR Part 1917]

[Docket No. FI-5522]

Proposed Flood Elevation Determinations for Union County, Oregon, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Union County, Oregon. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Union County Courthouse, La Grande, Oregon. Send comments to: Honorable Earle C. Misener, Judge, Union County, Union County Courthouse, La Grande, Oregon 97850.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Union County, Oregon, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the

¹ The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, feet, national geodetic vertical datum
Phillips Creek	Lumber Yard Access Bridge-20 feet*	2730
	Residence Access Bridge**	2754
	Limit of Detailed Study**	2778
Little Creek	Godley Road Bridge-100 feet*	2753
	Corporate Limits (upstream from Godley Road Bridge)-20 feet*	2762
	Most Upstream Corporate Limits from Godley Road Bridge**	2817
	Limit of Detailed Study at Bridge-20 feet*	2857
	Limit of Detailed Study**	3222
North Powder River	Corporate Limits (upstream from Limit of Detailed Study)**	3234
	Thief Valley Road-20 feet*	3244
	U.R. Route 30-20 feet*	3257
Grande Ronde at Island City	Most Downstream Limit of Detailed Study**	2709
	Union Pacific Bridge**	2728
	Most Upstream Limit of Detailed Study**	2734
Grande Ronde at Elgin	Most Downstream Limit of Detailed Study**	2634
	Corporate Limits (upstream from most downstream Limit of Detailed Study)**	2646
	State Highway 82 Bridge (Wallowa Lake Highway)-20 feet*	2649
	New Cedar Street Bridge-20 feet*	2654
	Corporate Limits (upstream from New Cedar Street Bridge)**	2658
	State Highway 82 Bridge (upstream from New Cedar Street Bridge) (Wallowa Lake Highway)-20 feet	2661
	Limit of Detailed Study at State Highway 82 Bridge (Wallowa Lake Highway)**	2674

* Upstream from centerline.

** At centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 1, 1979.
Gloria M. Jimenez,
Federal Insurance Administrator.
[FR Doc. 79-18161 Filed 6-12-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

[Docket No. FI-5523]

Proposed Flood Elevation Determinations for the Township of Conewago, York County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Conewago, York County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Conewago Township Building. Send comments to: Mr. Jim Kennedy, Chairman of the Township of Conewago, Township Building, R.D. 4, Copenhaffer Road, York, Pennsylvania 17404.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Conewago, York County, Pennsylvania in accordance with section 110 of the Flood Disaster

¹The functions of the Federal Insurance Administration Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Conewago Creek—Harrisburg Baltimore 324 Expressway.	Canal Road State Route 921	333
	Susquehanna Trail 3,100 feet upstream of Susquehanna Trail.	335

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 1, 1979.
Gloria M. Jimenez,
Federal Insurance Administrator.
[FR Doc. 79-18162 Filed 6-12-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

[Docket No. FI-5524]

Proposed Flood Elevation Determinations for the Township of East Manchester, York County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

¹The functions of the Federal Insurance Administration Department of Housing and Urban Development, were transferred to the newly

Footnotes continued on next page

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of East Manchester, York County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the East Manchester Township Building. Send comments to: Mr. John Brown III, Chairman of the Township of East Manchester, R. D. 1, Mount Wolf, Pennsylvania 17347.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 425-8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of East Manchester, York County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other

Federal, State, or regional entities.

These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River...	Downstream Corporate Limits	276
	Upstream Corporate Limits	281
West Conewago Creek	Flood Channel	281
	Confluence of Little Conewago Creek	290
Little Conewago Creek	Confluence with West Conewago Creek	290
	Locust Point Road Bridge	321
	Interstate 83 crossing	324
Codorus Creek	L. R. 66152 crossing	276
	L. R. 66020 crossing	343
	Upstream Corporate Limits	347
hartman Run	L. R. 66153 and Conrail crossing	320
	Mount Wolf-East Manchester boundary	351
	Township Route 945 crossing	434

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: June 1, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-18163 Filed 6-12-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

[Docket No. FI-5525]

Proposed Flood Elevation Determinations for the Borough of Fairview, Erie County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Fairview, Erie County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain

management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall, Fairview, Pennsylvania. Send comments to: Mr. William E. Walker, President of the Council of Fairview, 44 Walker Avenue, Fairview, Pennsylvania 16416.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Fairview, Erie County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Footnotes continued from last page established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

¹ The functions of the Federal Insurance Administration Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Trout Run	Downstream Corporate Limits	769
	Downstream Lane of U.S. Route 20	779
	South Garwood Street	791
	Upstream Corporate Limits	804

(National Flood Insurance Act of 1968 [Title XIII of Housing and Urban Development Act of 1968], effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: June 1, 1979.
Gloria M. Jimenez,
Federal Insurance Administrator.
[FR Doc. 79-18164 Filed 6-12-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

[Docket No. FI-5526]

Proposed Flood Elevation Determinations for the Township of Hellam, York County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹
ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selection locations in the Township of Hellam, York County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Hellam Township Building. Send comments to: Mr. Michael Loucks, Chairman of the

¹The functions of the Federal Insurance Administration Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Township of Hellam, Hellam Township Office, R. D. 24, P.O. Box 62, Wrightsville, Pennsylvania 17406.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Hellam, York County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River	Downstream Corporate Limits	223
	U.S. Route 30 (Upstream)	244
	Upstream Corporate Limits	275
Kreutz Creek	Downstream Corporate Limits	254
	Cool Creek Road, Legislative Route 5604 (Upstream)	263
	Baldsmill Road, T-773 (Upstream)	279
	Sticklers School Road T-773 (Upstream)	284
	Dam 1,300 feet upstream of Sticklers School Road (Upstream)	289
	Abandoned Railroad (Upstream)	303
	Abandoned Railroad 1,200 feet downstream of Duckdown Road (Downstream)	308
	Abandoned Railroad 1,200 feet downstream of Duckdown Road (Upstream)	314

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Duckdown Road (Upstream)	316
	Abandoned Railroad 1,400 feet downstream of Hillview Road (Downstream)	320
	Abandoned Railroad 1,400 feet downstream of Hillview Road (Upstream)	327
	Abandoned Railroad 800 feet upstream of Hillview Road (Upstream)	331
	Abandoned Railroad 225 feet downstream of Hallam Borough Corporate Limits (Downstream)	333
	Abandoned Railroad 225 feet downstream of Hallam Borough Corporate Limits (Upstream)	338
	Abandoned Railroad 680 feet upstream of Hallam Borough Corporate Limits (Downstream)	347
	Abandoned Railroad 680 feet upstream of Hallam Borough Corporate Limits (Upstream)	356
	Valley Access Road (Upstream)	360
	Uphard Mill Road (Downstream)	379
	Uphard Mill Road (Upstream)	384
	On Valley (Upstream)	400
	Upstream Corporate Limits	424
Tributary D	Downstream Corporate Limits	382
	U. S. Route 30 (Upstream)	390
	U. S. Route 30 (Upstream)	398
Tributary E	Horn Road, F779 (Upstream)	403
	Downstream Corporate Limits	349
	Frysville Road	352
	Confluence of Tributary E-2	357
	Lincoln Highway (Upstream)	378
	Old Church Lane (Upstream)	381
	Kreutz Creek Road (Downstream)	382
	Kreutz Creek Road (Upstream)	388
Tributary E-1	Abandoned Railroad Bridge 100 feet downstream of Frysville Road (Downstream)	354
	Abandoned Railroad Bridge 100 feet downstream of Frysville Road (Upstream)	363
	Horn Road	364
	Campbell Road (Upstream)	371
	Upstream Corporate Limits	375
Tributary E-2	Confluence with Tributary E	357
	Footbridge	361
	Irrigation Ditch	363
	Campbell Road (Downstream)	396
	Campbell Road (Upstream)	402
	Lincoln Highway	402
	Shoehouse Road (Upstream)	405

(National Flood Insurance Act of 1968 [Title XIII of Housing and Urban Development Act of 1968], effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 1, 1979.
Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-18165 Filed 6-12-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]**[Docket No. FI-5527]****Proposed Flood Elevation Determinations for the Township of Manor, Lancaster County, Pa., Under the National Flood Insurance Program****AGENCY:** Office of Federal Insurance and Hazard Mitigation, FEMA.¹**ACTION:** Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Manor, Lancaster County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building, 26 Millersville Road, 9:00 am to 4:00 pm. Send comments to: Mr. James Huber, Chairman of the Township of Manor, 113 Shannon Drive, Lancaster, Pennsylvania 17603.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice to the proposed determinations of base (100-year) flood elevations for the Township of Manor, Lancaster County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of

¹The functions of the Federal Insurance Administration Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.....	Confluence of Conestoga Creek	190
	Safe Harbor Dam (Upstream)	227
	Corporate Limits	239
Conestoga Creek	Conrail	190
	Confluence of Little Conestoga Creek	204
	Slackwater Road	218
	Corporate Limits	227
Little Conestoga Creek	Confluence with Conestoga Creek	204
	Walnut Hill Road	213
	Owl Bridge Road	230
	Letort Road	239
	Blue Rock Road	250
	Weir 950 feet upstream of Route 36008 (Upstream)	257
	Confluence of Tributary A	273
	Mill Driveway (Downstream) ..	284
	Columbia Avenue	291
Tributary A	Confluence with Little Conestoga Creek	273
	Confluence of Tributary A1	275
	Farm Road Culvert	309
	A. Cork Property Number One Culvert	332
	Kready Road	348
	Limit of detailed study 1,840 feet upstream of Kready Road	366
Tributary A1	Confluence with Tributary A ..	275
	Farm Road Culvert	291
	2,030 feet upstream of Culvert	325
West Branch of Little Conestoga Creek	Confluence with Little Conestoga Creek	215
	Owl Bridge Road (Downstream)	243
	Letort Road	263
	Confluence of Tributary A	268
	Confluence of Tributary B	275
	Confluence of Tributary C	294
	Bluerock Road	303
	Charlestown Road	321
	Habecker Church Road	335
	Hershey Mill Road (Downstream)	367
	Hershey Mill Road (Upstream)	375

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 1, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

(FR Doc. 79-18168 Filed 6-12-79; 8:45 am)

BILLING CODE 4210-23-M

[24 CFR Part 1917]**[Docket No. FI-5528]****Proposed Flood Elevation Determinations for the Township of Marshall, Allegheny County, Pa., Under the National Flood Insurance Program****AGENCY:** Office of Federal Insurance and Hazard Mitigation, FEMA.¹**ACTION:** Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Marshall, Allegheny County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of the Township Secretary, by appointment. Send comments to: Mr. Thomas W. Frank, Chairman of the Township of Marshall, P.O. Box 194, Warrendale, Pennsylvania 15088.

¹The functions of the Federal Insurance Administration Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Marshall, Allegheny County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Brush Creek.....	Downstream Corporate Limits.....	1,023
	Upstream Thom Hill Road.....	1,032
	Upstream Perry Highway.....	1,052
	Upstream Northgate Drive.....	1,059
	Upstream Sewage Plant Entrance.....	1,062
	Upstream Corporate Limits.....	1,072

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 1, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-18167 Filed 6-12-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

[Docket No. FI-5529]

Proposed Flood Elevation Determinations for the Borough of Mount Holly Springs, Cumberland County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Mount Holly Springs, Cumberland County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall, Mount Holly Springs, Pennsylvania.

Send comments to: Mr. Joseph Coproski, President of the Council of Mount Holly Springs, Borough Office, Chestnut Street, Mount Holly Springs, Pennsylvania 17065.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Mount Holly Springs, Cumberland County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mountain Creek.....	Corral (Downstream Side).....	540
	Corral (Upstream Side).....	544
	Mit Street (Upstream Side).....	547
	Pine Street (Upstream Side).....	562
	Mountain Street (Downstream Side).....	565
	State Route 34 (Downstream Side).....	576
	Dam No. 1 (Upstream Side).....	578
	Dam No. 2 (Downstream Side).....	588
	Dam No. 2 (Upstream Side).....	597
	Upstream Corporate Limits.....	601

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 1, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-18168 Filed 6-12-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

[Docket No. FI-5530]

Proposed Flood Elevation Determinations for the Borough of Paxtang, Dauphin County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Paxtang, Dauphin County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, Paxtang, Pennsylvania.

Send comments to: Honorable J. Calvin Neill, Mayor of Paxtang, Municipal Building, Derry Street, Paxtang, Pennsylvania 17111.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Paxtang, Dauphin County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the

second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Parkway Creek.....	Downstream Corporate Limits.....	373
	Derry Street (Upstream).....	373
	Brisban Street (Upstream).....	373
	Upstream Corporate Limits.....	389
Spring Creek.....	Downstream Corporate Limits.....	363
	Lower 'Ganfle' Bridge.....	364
	Upstream Corporate Limits.....	365

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 1, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-18169 Filed 6-12-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]**[Docket No. FI-5531]**

Proposed Flood Elevation Determinations for the Township of Shaler, Allegheny County, Pa., Under the National Flood Insurance Program.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Shaler, Allegheny County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

¹The functions of the Federal Insurance Administration Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, 300 Wetzel Road, Glenshaw, Pennsylvania.

Send comments to: Mr. Thomas E. Dunmyre, President of the Commission of Shaler, 742 Center Avenue, Pittsburgh, Pennsylvania 15215.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Shaler, Allegheny County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Allegheny River.....	Downstream Corporate Limits.....	734
	Upstream Corporate Limits.....	735
Pine Creek.....	Downstream Corporate Limits.....	761
	Shopping Center Bridge.....	760
	Pennview Street.....	764
	Maple Avenue.....	783
	Spencer Lane.....	792
	Butler Plank Road.....	803
	Burchfield Road.....	828
	Upstream Corporate Limits.....	839
Girtys Run.....	Downstream Corporate Limits.....	784

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Pine Creek West	Evergreen Road.....	804
	Dravo Street Extension.....	829
	Upstream Corporate Limits.....	840
	Downstream Corporate Limits.....	761
	Private Drive.....	818
Little Pine Creek East	Wetzel Road.....	880
	Clair Street.....	973
	Upstream Corporate Limits.....	977
	Confluence with Pine Creek.....	757
	Keye Street.....	757
	Saxonburg Boulevard.....	786
	Private Drive.....	796
	Upstream Corporate Limits.....	796

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367, and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 1, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-18170 Filed 6-12-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

[Docket No. FI-5532]

Proposed Flood Elevation Determinations for the Borough of Turtle Creek, Allegheny County, Pa. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Turtle Creek, Allegheny County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a

newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Building, 125 Monroeville Avenue, Turtle Creek, Pennsylvania.

Send comments to: Mr. John Rettger, Council President of Turtle Creek, 125 Monroeville Avenue, Turtle Creek, Pennsylvania 15145.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Turtle Creek, Allegheny County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Turtle Creek	Confluence of Thompson Run.....	732
	Upstream Corporate Limits.....	736
Thompson Run	Conrail.....	732
	Conrail.....	734
	Penn Avenue.....	738
	Conrail.....	739
	Tri-borough Expressway.....	745
	Church Street.....	749
	Union Railroad.....	749
	Factory Entrance.....	756

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
	Jones Avenue.....	758

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 1, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-18171 Filed 6-12-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

[Docket No. FI-5533]

Proposed Flood Elevation Determinations for Town of Clover, York County, S.C., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Clover, York County, South Carolina.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Clover, South Carolina. Send comments to: Mayor William Sentelle or Mr. Carl Morrow, Mayor Pro Tem, Town Hall, P.O. Box 181, Clover, South Carolina 29710.

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Clover, York County, South Carolina, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Allison Creek.....	Just upstream of Western corporate limits.	722
Calabash Branch.....	Just downstream of Flat Rock Street.	738
	Approximately 200 feet upstream of McConnell Street.	746

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 1, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-18172 Filed 6-12-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

[Docket No. FI-5534]

Proposed Flood Elevation Determinations for the City of Castle Dale, Emery County, Utah, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Castle Dale, Emery County, Utah.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 61 East First North, Castle Dale, Utah.

Send comments to: Honorable Bert Oman, Mayor, City of Castle Dale, City Hall, 61 East First North, Castle Dale, Utah 84513.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Castle Dale, Utah, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the

¹ The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3, of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cottonwood Creek	Downstream Corporate Limits.	5020
	Upstream Corporate Limits	5650

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 1, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-18173 Filed 6-12-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

[Docket No. FI-5412]

Proposed Flood Elevation Determinations for the Town of Chester, Windsor County, Vt., Under the National Flood Insurance Program; Correction

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 44 FR 26757 of the Federal Register of May 7, 1979.

EFFECTIVE DATE: May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood

¹ The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3, of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Williams River	Approximately 850 feet downstream of the confluence of Kingdom Valley Brook.	565
	Just upstream of Duttonville Gulf Road.	771
Middle Branch Williams River.	610 feet downstream of the first crossing of Joe Sweet Road.	655
	Just downstream of the first crossing of Joe Sweet Road.	662
	1,400 feet upstream of the first crossing of Joe Sweet Road.	680
	Approximately 3,000 feet downstream of the second crossing of Joe Sweet Road.	702
	30 feet downstream of the second crossing of Joe Sweet Road.	739
	Just upstream of the second crossing of Joe Sweet Road.	743
	1,230 feet upstream of the second crossing of Joe Sweet Road.	760
South Branch Williams River.	Approximately 120 feet upstream of State Route 35.	681
	775 feet downstream of Ethan Allen Road.	1,370
Lovers Lane Brook	500 feet upstream of Church Street.	620
Andover Branch	2,780 feet upstream of Potash Brook Road.	995

Should be corrected to read:

Source of Flooding	Location	Elevation in Feet, national geodetic vertical datum
Williams River	Approximately 850 feet downstream of the confluence of Kingdom Valley Brook.	565
	Just upstream of Duttonville Gulf Road.	769
Middle Branch Williams River.	610 feet downstream of the first crossing of Joe Sweet Road.	655
	Just downstream of the first crossing of Joe Sweet Road.	662
	1,400 feet upstream of the first crossing of Joe Sweet Road.	680
	Approximately 3,000 feet downstream of the second crossing of Joe Sweet Road.	702
	30 feet downstream of the second crossing of Joe Sweet road.	739
	Just upstream of the second crossing of Joe Sweet Road.	743
	1,230 feet upstream of the second crossing of Joe Sweet Road.	750
South Branch Williams River.	Approximately 120 feet upstream of State Route 35.	682
	775 feet upstream of Ethan Allen Road.	1,370

Source of Flooding	Location	Elevation in Feet, national geodetic vertical datum
Lovers Lane Brook	500 feet downstream of Church Street.	620
Andover Branch	2,580 feet upstream of Potash Brook Road.	995

(National Flood Insurance Act of 1968 [Title XIII of Housing and Urban Development Act of 1968], effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: June 1, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-18174 Filed 6-12-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

[Docket No. FI-5535]

Proposed Flood Elevation Determinations for the Town of Remington, Fauquier County, Va., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Remington, Fauquier County, Virginia.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, Remington, Virginia.

¹ The functions of the Federal Insurance Administration Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 18367, April 3, 1979).

Send comments to: Honorable Wynant Hoffman, Mayor of Remington, P.O. Box 123, Remington, Virginia 22734.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Remington, Fauquier County, Virginia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 [Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)], 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Tripot Run	Route 651 Bridge	277
	Route 655 Bridge	277
	Upstream Corporate Limit	277

(National Flood Insurance Act of 1968 [Title XIII of Housing and Urban Development Act of 1968], effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: June 1, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-18175 Filed 6-12-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]**[Docket No. FI-5536]****Proposed Flood Elevation Determinations for the City of Chehalis, Lewis County, Wash., Under the National Flood Insurance Program****AGENCY:** Office of Federal Insurance and Hazard Mitigation, FEMA.¹**ACTION:** Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Chehalis, Lewis County, Washington.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Chehalis, Washington.

Send comments to: Honorable Vivian M. Roewe, Mayor, City of Chehalis, P.O. Box 871, Chehalis, Washington 98532.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Chehalis, Washington, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the

program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chehalis River.....	Confluence with Salzer Creek	175
	Confluence with Dillenbaugh Creek	179
Newaukum River	Southwest Riverside Road* ...	181
	H.C. Shory Road*	182
	Burlington Northern Railroad (upstream crossing)* ..	184
Coal Creek	North National Avenue (50 feet)** ..	177
Salzer Creek	Coal Creek Road-1 Bridge* ..	178
	Burlington Northern Railroad* ..	176
Dillenbaugh Creek	Grand Avenue Bridge*	176
	Ocean Beach Highway*	180
	Burlington Northern Railroad ..	183
	Southwest Parkland Drive (100 feet)** ..	185

*Centerline.

**Upstream From Centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 1, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-18176 Filed 6-12-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]**[Docket No. FI-5537]****Proposed Flood Elevation Determinations for the Town of Shepherdstown, Jefferson County, W. Va., Under the National Flood Insurance Program****AGENCY:** Office of Federal Insurance and Hazard Mitigation, FEMA.¹

¹ The functions of the Federal Insurance Administration Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Shepherdstown, Jefferson County, West Virginia.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Shepherdstown, West Virginia.

Send comments to: Honorable Clarence Wright, Mayor of Shepherdstown, Town Hall, Shepherdstown, West Virginia 25443.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Shepherdstown, Jefferson County, West Virginia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be

¹ The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Potomac River	Upstream Corporate Limits	323
	Downstream Corporate Limits	322
Town Run	Confluence with Potomac River	323
	From the centerline of East High Street to 150' North	Depth 1
	From the centerline of East High Street South 600'	Depth 2
	From 60' south of the intersection of South Princess Street and East German Street to 180' south of the intersection.	Depth 1

(National Flood Insurance Act of 1968 [Title XIII of Housing and Urban Development Act of 1968], effective January 28, 1969 [33 FR 17804, November 28, 1968], as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 1, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-18177 Filed 6-12-79; 8:45 am]

BILLING CODE 4210-23-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1246-6]

Approval and Promulgation of Implementation Plans; California Plan Revision: Santa Barbara County Air Pollution Control District and the Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Santa Barbara County Air Pollution Control District (APCD) submitted Regulation VII, "Emergencies" on July 19, 1974; October 23, 1974; and April 21, 1976 and the Ventura County APCD submitted Regulation VIII, "Emergency Action" on July 19, 1974; January 10, 1975; and November 3, 1975 to the Environmental Protection Agency (EPA). The purpose of these regulations is to provide an emergency episode contingency plan in accordance with 40 CFR 51.16 that will

prevent ambient air pollutant concentrations from reaching levels which could cause significant harm to public health and to abate such concentrations should they occur. These rules have been submitted to EPA by the California Air Resources Board (ARB) as a revision to the California State Implementation Plan (SIP). The purpose of this rulemaking is to approve part of the SIP revisions, to take no action on part of the revisions, and to propose replacement regulations to correct deficiencies in the revised plans. EPA invites written public comment concerning this proposed rulemaking. Those wishing to comment or request a public hearing may do so by writing EPA at the address listed below.

DATES: Comments or requests for a public hearing may be submitted up to August 13, 1979.

ADDRESSES: Comments or requests for a public hearing may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Technical Branch, Technical Analysis Section (A-4-3), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

The EPA has established a rulemaking Docket, 9A-79-4 containing all the information on which the proposed rulemaking relies, which is available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the EPA Central Docket Section at the following address: EPA Central Docket Section, Waterside Mall, Room 2903 B, 401 "M" Street, S.W. Washington, DC 20460.

Additionally, copies of Regulations VII and VIII and EPA's "Evaluation Report and Technical Support Document" for the appropriate agency's plan are available for public inspection during normal business hours at the following locations:

Ventura County Air Pollution Control District, 800 South Victoria Avenue, Ventura, CA 93001.

Santa Barbara County Air Pollution Control District, 4440 Calle Real, Santa Barbara, CA 93110.

California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Charlotte Hopper, Acting Chief, Technical Analysis Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX (415) 556-2002.

SUPPLEMENTARY INFORMATION:

Background

Section 110(a) of the Clean Air Act required that a SIP contain air pollution emergency episode plans, and 40 CFR 51.16 "Prevention of Air Pollution Emergency Episodes," specifies the minimum requirements for the content of these plans, including provisions for taking any emission control actions necessary to prevent ambient pollutant concentrations from reaching levels which could cause significant harm to the health of persons. The original SIP submitted by the State of California on February 21, 1972 failed to meet the requirements specified in 40 CFR 52.16. Therefore, on May 31, 1972 (37 FR 10851) EPA disapproved the emergency plan portion of the California SIP.

In November 1973, the State of California adopted a revised episode plan, which was submitted to EPA on February 6, 1974. EPA proposed conditional approval of this SIP revision on June 26, 1974 (39 FR 23069), but this proposal was never finalized.

In March 1975, the California Lung Association and others commenced a citizen suit against EPA and the ARB requesting the U.S. District Court for the Central District of California to order EPA to promulgate and enforce an emergency episode plan for the South Coast Air Basin (SCAB) of California (*California Lung Association et al. v. Train*, Civil No. 75-1044-WPG). According to an agreed upon schedule, EPA and the ARB worked together towards Federal approval of an emergency episode plan for the SCAB.

On April 12, 1976 (41 FR 15237) EPA approved, as a revision to the SIP, California's October 21, 1975 Air Pollution Emergency Plan for three pollutants: photochemical oxidants, sulfur dioxide, and carbon monoxide. Although required by 40 CFR 51.16, provision for nitrogen dioxide, particulate matter, and sulfur dioxide and particulate matter combined were missing from this revised plan. On June 27, 1977, pursuant to plaintiff California Lung Association's motion, the Court ordered EPA to certify that the emergency episode plan approved on April 12, 1976 was fully adequate under the law in all respects (i.e., contained episode plans for all six pollutants), or to withdraw such approval (*California Lung Association et al. v. Costle* Civil No. 75-1044-WPG).

The EPA Administrator responded to this order with an affidavit dated July 6, 1977, which stated that since the Agency's April 12, 1976 approval of the plan applied only to the three pollutants specifically set forth therein, EPA

concluded in accordance with the Court's order, that the plan was not fully complete. Consequently, on August 11, 1977 (42 FR 40695), EPA rescinded the prior approval, reinstating the disapproval of the emergency episode plan portion of the California SIP.

On March 24, 1977, the ARB adopted a revised Air Pollution Emergency Plan (State guideline) which was submitted to EPA as a revision to the SIP on June 1, 1977. On August 8, 1977, the EPA Administrator submitted a second affidavit as required by the Court, concerning the recent submittal, stating that EPA intended to approve most of the State guideline for use by the Air Pollution Control Districts in developing episode plans. Subsequently, EPA developed a supplement to the State guideline to correct deficiencies noted in that document (43 FR 60929).

The August 8, 1977 affidavit was then followed by a Joint Stipulation of Settlement, signed on December 5, 1977 by counsels for the Administrator and for the California Lung Association. Among other things this Stipulation contained an agreement that by June 8, 1980, EPA would review the emergency episode regulations of the Air Pollution Control Districts in the State of California, approving or promulgating regulations as necessary. This proposed rulemaking and its associated documents carry out part of the actions called for in the December 5, 1977 Joint Stipulation of Settlement, relating to the Santa Barbara County APCD and the Ventura County APCD emergency episode plans.

The California Air Resources Board submitted the following rules and regulations to the EPA for the Santa Barbara County APCD and the Ventura County APCD on the following dates:

Santa Barbara County APCD

Rules 150-159 and 161-164—July 19, 1974
Rule 160—October 23, 1974
Rule 63—April 21, 1976

Ventura County APCD

Rules 150-159 and 161-164—July 19, 1974
Rule 160—January 10, 1975
Rule 153—November 3, 1975

Summary of Regulation VII, "Emergencies" and Regulation VIII, "Emergency Action"

In general, Regulations VII and VIII establish the procedures which are to be taken by industry, commerce, business, government, and the public to prevent ambient pollutant concentrations from reaching levels which could cause significant harm to public health. For example, whenever it is determined that any episode level specified in

Regulations VII or VIII is predicted to be attained, is being attained, or has been attained, and is predicted to remain at such levels for 12 or more hours, the episode stage is declared, the appropriate persons are notified, and the abatement actions for that particular stage are implemented. The abatement actions are designed to reduce the pollutant level into the next lower stage or level and to prevent pollutant concentrations from reaching levels which could cause significant harm to public health. To accomplish this, the abatement actions become more stringent as an episode is predicted to progress or progresses from one stage to the next.

EPA's Proposed Actions

EPA evaluated Regulations VII and VIII by comparing each Regulation to 40 CFR 51.16 which sets forth the minimum requirements for an emergency episode contingency plan. This comparison is presented in an "Evaluation Report and Technical Support Document." Based upon the comparison of the regulations to 40 CFR 51.16, EPA proposes to approve those portions of the revisions which meet the requirements of 40 CFR 51.16, take no action on part of the revisions, and propose replacement regulations to correct deficiencies in the revised plans with respect to the requirements of 40 CFR 51.16.

The Rules that EPA is proposing to approve for inclusion into the California SIP are as follows:

Ventura County APCD

Rule 150—Source and Receptor Areas
Rule 151—Air Monitoring Stations
Rule 152—Air Monitoring Summaries
Rule 153—Episode Criteria
Rule 154—Episode Notifications
Rule 155—Plans
Rule 156—Communication Network
Rule 157—First Stage Episode Actions
Rule 158—Second Stage Episode Actions
Rule 159—Third Stage Episode Actions
Rule 160—Interdistrict Coordination
Rule 161—Enforcement
Rule 162—Termination of Episodes
Rule 163—Advisory Committee
Rule 164—Emergency Action Board

Santa Barbara County Air Pollution Control District

Rule 63—Episode Criteria
Rule 150—General
Rule 151—Air Monitoring Stations
Rule 152—Air Monitoring Summaries
Rule 154—Episode Notifications
Rule 155—Plans
Rule 156—Communication Network
Rule 157—First Stage Episode Actions
Rule 158—Second Stage Episode Actions
Rule 159—Third Stage Episode Actions
Rule 160—Interdistrict Coordination
Rule 61—Enforcement

Rule 162—Termination of Episodes
Rule 163—Scientific Committee
Rule 164—Emergency Action Committee

The following discusses those rules which EPA is proposing to approve and to take no action on. EPA is also proposing replacement regulations to correct deficiencies in both plans:

Rule 63, Episode Criteria, for the Santa Barbara County APCD: EPA is proposing to approve part of Rule 63, take no action on part of Rule 63, and is proposing the following replacement regulations:

1. Rule 63 of Regulation VII specifies 1- and 12-hour average carbon monoxide (CO) episode criteria levels. EPA has specified significant harm levels for 1-, 4-, and 8-hour averaging periods for CO. The 1-hour CO criteria level in Regulation VII is consistent with EPA requirements; however, the regulation does not provide for either a 4- or an 8-hour CO criteria level. EPA is therefore proposing 4- and 8-hour CO criteria levels to supplement the existing 1-hour level specified in Rule 63 and is taking no action on the 12-hour CO criteria level. EPA is also proposing that the episode actions which apply to the 1-hour CO criteria level in Rule 63 also apply to the 4- and 8-hour criteria levels.

Rule 155, Plans, for the Santa Barbara County APCD and the Ventura County APCD: EPA is proposing to approve Rule 155 but also proposes to add the following replacement regulations:

1. Rule 155 for the Ventura County APCD and the Santa Barbara County APCD does not provide for a time schedule for the Air Pollution Control Officers to initiate the call for the submittal of individual abatement plans. EPA's proposed regulations call for the submittal and approval of the necessary abatement plans within a specified time limit.

2. The requirements specified in Rule 155 for the content of the abatement plans are not sufficiently specific to ensure that adequate plans will be submitted. EPA is therefore proposing criteria for the content of such plans, following the requirements specified in the California Air Resources Board, Air Pollution Emergency Plan (State guideline) (March 24, 1977) and EPA's Supplement to the State guideline (43 FR 60929).

Rule 158, Second Stage Episode Actions and Rule 159, Third Stage Episode Actions, for the Santa Barbara County APCD and the Ventura County APCD: EPA is proposing to approve Rules 158 and 159 but also proposes to add the following replacement regulations:

1. Both regulations do not provide adequate emission control actions to prevent the significant harm levels of the Priority I pollutants from being reached. EPA intends to correct this deficiency by proposing mandatory emission control actions to be taken at each stage.

In addition to the above approvals and deficiencies the Ventura County APCD and the Santa Barbara County APCD omitted certain requirements specified by 40 CFR 51.16. The omissions, and a discussion of EPA's proposed regulations to correct those omissions, are as follows:

1. The Ventura County APCD and the Santa Barbara County APCD are required to provide for a particulate matter (TSP) emergency episode contingency plan. Both districts, however, do not provide for this type of plan, as required by 40 CFR 51.16. EPA is therefore proposing a 24-hour TSP criteria level. EPA is also proposing that the episode actions which apply to the 1-hour CO and photochemical oxidants (O_3) criteria levels also apply to the 24-hour TSP criteria level.

Santa Barbara County is divided into two planning areas: The Santa Barbara non-Air Quality Management Area (AQMA) and the Santa Barbara AQMA. The Santa Barbara non-AQMA is Priority III for all pollutants (40 CFR 52.221) and, as such, an emergency episode plan is not required for this planning area.

Amendments to 40 CFR 51.16 were published on March 20, 1979 in the Federal Register (44 FR 16911). Under these amendments, the Administrator may exempt attainment or unclassifiable areas from the requirements for future emergency episode plan development.

The Santa Barbara AQMA planning area is classified as Priority I for total suspended particulate matter (TSP), nitrogen dioxide (NO_2), carbon monoxide (CO), and photochemical oxidants (O_3), and as Priority II for sulfur dioxide (SO_2) (40 CFR 52.221). On March 3, 1978 (43 FR 8962) EPA designated the Santa Barbara AQMA as nonattainment for TSP, O_3 , and CO, as unclassifiable for SO_2 , and as attainment for NO_2 . As such, the Administrator has exempted the Santa Barbara AQMA planning area for NO_2 and SO_2 from episode plan requirements.

Ventura County is classified as Priority I for NO_2 , CO, TSP, and O_3 , and Priority II for SO_2 . In the above-mentioned March 3, 1978, Federal Register (43 FR 8962), Ventura County was designated as nonattainment for

TSP and O_3 , as unclassifiable for SO_2 , and as attainment for NO_2 and CO. As such, the Administrator has exempted Ventura County for CO, SO_2 and NO_2 from episode plan requirements.

EPA's proposed regulations are based on 40 CFR 51.16 requirements, air quality data, emissions data, Regulations VII and VIII and the evaluation of the control strategies contained in Regulations VII and VIII.

The evaluation of the control strategies is presented in an "Evaluation Report and Technical Support Document." Incorporated into the document is a report by Pacific Environmental Services, Inc., prepared for Region IX EPA to develop background information for emergency episode abatement strategies applicable in Ventura County and the Santa Barbara AQMA planning area.

In proposing regulations, EPA used Regulations VII and VIII as a procedural guide to translate the "Evaluation Report and Technical Support Document" into regulations. Thus, the general detail and terminology proposed in this notice is consistent with Regulations VII and VIII.

Miscellaneous Information

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Additionally, anyone wishing to request a public hearing may do so by writing EPA at the Region IX office. Comments or requests for a public hearing received on or before August 13, 1979, will be considered. Also, comments received will be available for public inspection at the EPA Region IX Office and the EPA Central Docket Section.

(Secs. 110, 301(a), Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: June 4, 1979.

Paul de Falco, Jr.,
Regional Administrator.

Proposed Rulemaking

It is proposed to amend Part 52 of Chapter I, Title 40, of the Code of Federal Regulations as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(24)(x)(C), (c)(24)(xi), (c)(25)(vi), (c)(26)(xviii),

(c)(29)(vi)(B), and (c)(31)(vii)(C) as follows:

§ 52.220 Identification of plan.

(c) * * *
(24) * * *
(x) * * *

(C) Rules 150 to 159 and 161 to 164, except those portions that pertain to nitrogen dioxide, sulfur dioxide and carbon monoxide.

(xi) Santa Barbara County Air Pollution Control District.

(A) Rules 150 to 159 and 161 to 164, except those portions pertaining to nitrogen dioxide, sulfur dioxide and the 12-hour carbon monoxide criteria level.

(25) * * *

(vi) Santa Barbara County Air Pollution Control District.

(A) Rule 160, except those portions pertaining to nitrogen dioxide, sulfur dioxide and the 12-hour carbon monoxide criteria level.

(26) * * *

(xviii) Ventura County Air Pollution Control District.

(A) Rule 160, except those portions pertaining to nitrogen dioxide, sulfur dioxide and carbon monoxide.

(29) * * *

(vi) * * *

(B) Rule 153, except those portions pertaining to nitrogen dioxide sulfur dioxide and carbon monoxide.

(31) * * *

(vii) * * *

(C) Rule 63, except those portions pertaining to nitrogen dioxide, sulfur dioxide and the 12-hour carbon monoxide criteria level.

2. Section 52.274 is amended by adding paragraphs (a)(5), (a)(6), (m), (n), (o), and (p) as follows:

§ 52.274 California air pollution emergency plan.

(a) * * *

(5) Ventura County Air Pollution Control District.

(6) Santa Barbara Air Quality Management Area portion of the Santa Barbara County Air Pollution Control District.

(m) The requirements of § 51.16 of this chapter are met in the Ventura County Air Pollution Control District with the following exceptions: (1) There is no time schedule to initiate the call for the submittal of individual abatement plans;

(2) the requirements for the content of the abatement plans are not sufficiently specific to ensure that adequate plans are submitted; (3) adequate mandatory emission control actions are not provided for; (4) there are no episode criteria levels, declaration procedures, notification procedures, source inspection procedures, emission control actions, or episode termination procedures for particulate matter episodes.

(n) *Regulation for prevention of air pollution emergency episodes—preplanned abatement strategies, mandatory emission control actions, and a particulate matter emergency episode contingency plan.* (1) The requirements of this paragraph are applicable in the Ventura County Air Pollution Control District.

(2) For the purposes of this regulation the following definitions apply:

(i) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(ii) "ug/m³" means micrograms per cubic meter.

(iii) "Major National Holiday" means a holiday such as Christmas or New Year's.

(3) Stationary source curtailment plans and traffic abatement plans shall be prepared by business, commercial, industrial, and governmental establishments in Ventura County as follows:

(i) The owner or operator of any business, commercial, industrial, or governmental facility or activity listed below shall submit to the Administrator plans to curtail or cease operations causing stationary source air contaminants in such activity:

(A) Stationary sources which emit 25 tons per year or more of hydrocarbons, nitrogen oxides, or particulate matter.

(ii) The plans required by subparagraph (3)(i)(A) of this paragraph shall include the following information:

(A) The information requested by the California Air Resources Board, Air Pollution Emergency Plan (March 24, 1977).

(B) The total number of employees at the facility during each shift on a normal weekday and on a Major National Holiday.

(C) The amount of energy (gas, fuel oil and electricity) used on a normal weekday and on a Major National Holiday.

(D) For first-stage episodes, the measures to voluntarily curtail equipment operations that emit air pollutants specific to the type of episode and in the case of oxidant episodes, the

equipment operations that emit hydrocarbons and nitrogen oxides.

(E) For second-stage episodes:

(1) The measures to curtail as much as possible, equipment operations that emit air pollutants specific to the type of episode and in the case of oxidant episodes, the equipment operations that emit hydrocarbons and nitrogen oxides.

(2) The measures to postpone operations which can be postponed until after the episode.

(3) For fossil fuel-fired combustion sources, including electric utilities, with a heat input greater than 50 million BTU per hour the measures to burn natural gas.

(4) For electric utilities the measures, in addition to those in subparagraph (E)(3), to:

(i) Shift oil burning power generation to non-source areas to the maximum extent consistent with the public health, safety, and welfare.

(5) For refineries and chemical plants, the measures to be taken to reduce emissions by 20 percent by curtailing equipment operations that emit air pollutants specific to the type of episode and in the case of oxidant episodes, the equipment operations that emit hydrocarbons and nitrogen oxides without jeopardizing the public health or safety, without causing an increase in the emissions of other air contaminants, and without damaging production by more than 20 percent.

(6) The measures in subparagraph (3)(ii)(D) of this paragraph.

(F) For third-stage episodes:

(1) A list of equipment, with permit numbers if applicable, which can be shut down without jeopardizing the public health or safety, and an estimate of the resultant reductions in hydrocarbons, nitrogen oxides and particulate matter emissions.

(2) A list of all equipment, with permit numbers if applicable, which must be operated to protect the public health or safety, and an estimate of the hydrocarbons, nitrogen oxides and particulate matter emissions from such equipment.

(3) The measures for chemical plants, petroleum refineries and electric utilities to reduce emissions by 33 percent by curtailing equipment operations that emit air pollutants specific to the type of episode and in the case of oxidant episodes the equipment operations that emit hydrocarbons and nitrogen oxides, without damaging the equipment or increasing the emissions of other air contaminants.

(4) The measures described in subparagraph (3)(ii)(E) of this paragraph.

(5) The measures for stationary sources which emit 25 tons per year or more of air contaminants to eliminate emissions specific to the type of episode and in the case of oxidant episodes, the measures to eliminate hydrocarbons and nitrogen oxides by starting no new batches, by ceasing feed of new materials, and by phasing down as rapidly as possible without damage to the equipment.

(iii) The owner or operator of any industrial, business, commercial, or governmental facility or activity listed below shall submit to the Administrator plans to curtail or cease operations causing air contaminants from vehicle use:

(A) Operators of 50 or more fleet vehicles.

(B) Industrial, business, commercial or governmental establishments employing more than 100 persons per shift at one business address.

(iv) The plans required by subparagraph (3)(iii)(A) and (B) of this paragraph shall include the following information:

(A) The information requested in the California Air Resources Board, Air Pollution Emergency Plan (March 24, 1977).

(B) The total number of employees at the facility during each shift.

(C) The total number of motor vehicles and vehicle miles traveled for motor vehicles operated:

(1) By the company on company business on a normal weekday and a Major National Holiday.

(2) By employees commuting between home to the place of business on a normal weekday and a Major National Holiday.

(3) The minimum number of motor vehicles to be operated that are necessary to protect public health or safety.

(4) A copy of the stationary source curtailment and/or traffic abatement plans approved in accordance with the provisions of this paragraph shall be on file and readily available on the premises to any person authorized to enforce the provisions of this paragraph.

(5) The owner or operator of any governmental, business, commercial, or industrial activity or facility listed in subparagraph (3) of this paragraph shall submit a stationary source curtailment plan and/or traffic abatement plan to the Administrator within 60 days after promulgation of final rulemaking.

(6) The plans submitted pursuant to the requirements of this paragraph shall be reviewed by the Administrator for approval or disapproval according to the following schedule:

(i) For sources with emissions of hydrocarbons, nitrogen oxides or particulate matter greater than or equal to 454 metric tons (500 tons) per year, or for establishments employing 400 or more employees per shift, within 45 days after receipt.

(ii) For sources with emissions of hydrocarbons, nitrogen oxides, or particulate matter greater than or equal to 91 metric tons (100 tons) per year and less than 454 metric tons (500 tons) per year, or for establishments employing more than 200 and less than 400 employees per shift, within 90 days after receipt.

(iii) For sources with emissions of hydrocarbons, nitrogen oxides, or

particulate matter less than 91 metric tons (100 tons) per year, or for establishments employing 100 to 200 employees per shift, within 180 days after receipt.

(7) The owner or operator of any industrial, business, governmental or commercial establishment required to submit a plan by this paragraph shall be notified by the Administrator or his authorized representative within 30 days after the plan has been evaluated, if the plan is disapproved. Any plan disapproved by the Administrator shall be modified to overcome the disapproval and resubmitted to the Administrator within 30 days of receipt of the notice of disapproval.

(8) Any source that violates any requirement of this regulation shall be subject to enforcement action under Section 113 of the Act.

(9) All submittals or notifications required to be submitted to the Administrator by this regulation shall be sent to:

Regional Administrator, Attn: Air and Hazardous Materials Division, Air Technical Branch, Technical Analysis Section (A-4-3), Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105.

(10) For the purposes of this regulation the following episode criteria shall apply to particulate matter episodes:

Pollutant	Averaging time	Stage 1	Stage 2	Stage 3
Particulate matter	24 hours	375 $\mu\text{g}/\text{m}^3$	625 $\mu\text{g}/\text{m}^3$	875 $\mu\text{g}/\text{m}^3$

(11) The provisions of the Ventura County Air Pollution Control District's Regulation VIII, as submitted on July 19, 1974 and January 10, 1975, relating to episodes for carbon monoxide and photochemical oxidants averaged over 1 hour shall apply to particulate matter episodes averaged over 24 hours except that the Administrator shall insure that declaration procedures, notification procedures, source inspections, and termination of such episodes occur.

(12) The following abatement actions shall augment those abatement actions contained in Regulation VIII, Rule 158, Part-B of the Ventura County Air Pollution Control District as submitted on July 19, 1974:

(i) Postpone construction and demolition.

(13) The Administrator shall insure that the following actions will be taken in Ventura County in the source and receptor areas on the declaration of a Stage 1, Stage 2 or Stage 3 episode for particulate matter or photochemical oxidants episodes:

(i) For a Stage 1 or Stage 2 episode:

(A) Persons operating any facility or activity named in subparagraph (3) of this paragraph shall implement the appropriate plans submitted in

accordance with subparagraph (3) of the declared Stage 1 or Stage 2 episode for the appropriate air contaminant(s).

(ii) For a Stage 3 episode:

(A) The general public, schools, industrial, business, commercial, and governmental activities throughout the District shall operate as though the day were a Major National Holiday.

(o) The requirements of § 51.16 of this Chapter are met in the Santa Barbara Air Quality Management Area with the following exceptions: (1) There is no time schedule to initiate the call for the submittal of individual abatement plans; (2) the requirements for the content of the abatement plans are not sufficiently specific to ensure that adequate plans are submitted; (3) adequate mandatory emission control actions are not provided for; (4) there are no episode criteria levels, declaration procedures, notification procedures, source inspection procedures, emission control actions, or episode termination procedures for particulate matter episodes; (5) there are no episode criteria levels, declaration procedures, notification procedures, source inspection procedures, emission control actions, or episode termination procedures for carbon monoxide

episodes based on 4- and 8-hour averaging times for the Santa Barbara Air Quality Management Area.

(p) *Regulation for prevention of air pollution emergency episodes—preplanned abatement strategies, mandatory emission control actions, a particulate matter emergency episode contingency plan, and 4- and 8-hour carbon monoxide criteria levels.* (1) The requirements of this paragraph are applicable in the Santa Barbara Air Quality Management Area.

(2) For the purposes of this regulation the following definitions apply:

(i) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(ii) "ppm" means parts per million by volume.

(iii) " $\mu\text{g}/\text{m}^3$ " means micrograms per cubic meter.

(iv) "Major National Holiday" means a holiday such as Christmas or New Year's.

(3) For the purposes of this regulation, the following episode criteria levels shall apply to carbon monoxide episodes:

Pollutant	Averaging Time	Stage 1	Stage 2	Stage 3
Carbon monoxide	4 hours	25 ppm	45 ppm	60 ppm
	8 hours	15 ppm	30 ppm	40 ppm

(4) The provisions of the Santa Barbara County Air Pollution Control District's Regulation VII, as submitted on July 19, 1974, October 23, 1974 and April 21, 1974, relating to carbon monoxide

episodes averaged over 1 hour shall apply to carbon monoxide episodes averaged over 4 and 8 hours except that the Administrator shall insure that declaration procedures, notification

procedures, source inspections, and termination of such episodes occur.

(5) Stationary source curtailment plans and traffic abatement plans shall be prepared by business, commercial, industrial, and governmental

establishments in the Santa Barbara Air Quality Management Area as follows:

(i) The owner or operator of any business, commercial, industrial, or governmental facility or activity listed below shall submit to the Administrator plans to curtail or cease operations causing stationary source air contaminants in such activity:

(A) Stationary sources which can be expected to emit 100 tons per year or more of hydrocarbons, nitrogen oxides, carbon monoxide or particulate matter.

(ii) The plans required by subparagraph (5)(i)(A) of this paragraph shall include the following information:

(A) The information requested by the California Air Resources Board, Air Pollution Emergency Plan (March 24, 1977).

(B) The total number of employees at the facility during each shift on a normal weekday and on a Major National Holiday.

(C) The amount of energy (gas, fuel oil and electricity) used on a normal week and on a Major National Holiday.

(D) For first-stage episodes, the measures to voluntarily curtail equipment emitting air pollutants.

(E) For second-stage episodes:

(1) The measures to curtail as much as possible, equipment operations that emit air pollutants specific to the type of episode and in the case of oxidant episodes, the equipment operations that emit hydrocarbons and nitrogen oxides.

(2) The measures to postpone operations which can be postponed until after the episode.

(3) The measures described in subparagraph (5)(ii)(D) of this paragraph.

(F) For third-stage episodes:

(1) A list of equipment, with permit numbers if applicable, which can be shut down without jeopardizing the public health or safety, and an estimate of the resultant reductions in hydrocarbons, nitrogen oxides, carbon monoxide, and particulate matter emissions.

(2) A list of all equipment, with permit numbers if applicable, which must be operated to protect the public health or safety, and an estimate of the hydrocarbons, nitrogen oxides, carbon monoxide, and particulate matter emissions from such equipment.

(3) The measures described in subparagraph (5)(ii)(E) of this paragraph.

(iii) The owner or operator of any industrial, business, commercial, or governmental facility or activity listed below shall submit to the Administrator plans to curtail or cease operations causing air contaminants from vehicle use:

(A) Operators of 50 or more fleet vehicles.

(B) Industrial, business, commercial or governmental establishments employing more than 100 persons per shift at one business address.

(iv) The plans required by subparagraph (5)(iii) (A) and (B) of this paragraph shall include the following information:

(A) The information requested in the California Air Resources Board, Air Pollution Emergency Plan (March 24, 1977).

(B) The total number of employees at the facility during each shift.

(C) The total number of motor vehicles and vehicle miles traveled for motor vehicles operated:

(1) By the company on company business on a normal weekday and a Major National Holiday.

(2) By employees commuting between home to the place of business on a normal weekday and a Major National Holiday.

(3) The minimum number of motor vehicles to be operated that are necessary to protect public health or safety.

(6) A copy of the stationary source curtailment and/or traffic abatement plans approved in accordance with the provisions of this paragraph shall be on file and readily available on the premises to any person authorized to enforce the provisions of this paragraph.

(7) The owner or operator of any governmental, business, commercial, or industrial activity or facility listed in subparagraph (5) of this paragraph shall submit a stationary source curtailment plan and/or traffic abatement plan to the Administrator within 60 days after promulgation of final rulemaking.

(8) The plans submitted pursuant to the requirements of this paragraph shall be reviewed by the Administrator for approval or disapproval according to the following schedule:

(i) For sources with emissions of hydrocarbons, carbon monoxide, nitrogen oxides or particulate matter

greater than or equal to 454 metric tons (500 tons) per year, or for establishments employing 400 or more employees per shift, within 45 days after receipt.

(ii) For sources with emissions of hydrocarbons, nitrogen oxides, carbon monoxide or particulate matter greater than or equal to 91 metric tons (100 tons) per year and less than 454 metric tons (500 tons) per year, or for establishments employing more than 200 and less than 400 employees per shift, within 90 days after receipt.

(iii) For sources with emissions of hydrocarbons, nitrogen oxides, carbon monoxide or particulate matter less than 91 metric tons (100 tons) per year, or for establishments employing 100 to 200 employees per shift, within 180 days after receipt.

(9) The owner or operator of any industrial, business, governmental or commercial establishment required to submit a plan by this paragraph shall be notified by the Administrator or his authorized representative within 30 days after the plan has been evaluated, if the plan is disapproved. Any plan disapproved by the Administrator shall be modified to overcome the disapproval and resubmitted to the Administrator within 30 days of receipt of the notice of disapproval.

(10) Any source that violates any requirement of this regulation shall be subject to enforcement action under Section 113 of the Act.

(11) All submittals or notifications required to be submitted to the Administrator by this regulation shall be sent to:

Regional Administrator, Attn.: Air and Hazardous Materials Division, Air Technical Branch, Technical Analysis Section (A-4-3), Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105.

(12) For the purposes of this regulation the following episode criteria shall apply to particulate matter episodes:

Pollutant	Averaging time	Stage 1	Stage 2	Stage 3
Particulate matter	24 hours	375 $\mu\text{g}/\text{m}^3$	625 $\mu\text{g}/\text{m}^3$	875 $\mu\text{g}/\text{m}^3$

(13) The provisions of the Santa Barbara County Air Pollution Control District's Regulation VII, as submitted on July 19, 1974 and October 23, 1974, relating to episodes for carbon monoxide and photochemical oxidants

averaged over 1 hour shall apply to particulate matter episodes averaged over 24 hours except that the Administrator shall insure that declaration procedures, notification

procedures, source inspections, and termination of such episodes occur.

(14) The Administrator shall insure that the following actions will be taken in the Santa Barbara Air Quality Management Area in the source and receptor areas on the declaration of a Stage 1, Stage 2 or Stage 3 episode for particulate matter, carbon monoxide or photochemical oxidants episodes:

(i) For a Stage 1 or Stage 2 episode:

(A) Persons operating any facility or activity named in subparagraph (5) of this paragraph shall implement the appropriate plans submitted in accordance with subparagraph (5) of the declared Stage 1 or Stage 2 episode for the appropriate air contaminant(s).

(ii) For a Stage 3 episode:

(A) The general public, schools, industrial, business, commercial, and governmental activities throughout the Santa Barbara Air Quality Management Area shall operate as though the day were a Major National Holiday.

[FR. Doc. 79-16433 Filed 6-12-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 65]

[FRL 1233-1]

Notice of Proposed Approval of an Administrative Order Issued by the Pennsylvania Department of Environmental Resources to the Pennsylvania Power and Light Company, Montour Units 1 and 2

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Pennsylvania Department of Environmental Resources (DER) to the Pennsylvania Power and Light Company (PP&L). The order requires the company to bring air emissions from its Montour Steam Electric Station Units 1 and 2 in Derry Township, Pennsylvania into compliance with certain regulations contained in the federally approved Pennsylvania State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit

provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before July 13, 1979.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Gross, Air Enforcement Branch (3EN12) at the above address or telephone 215/597-8907.

SUPPLEMENTARY INFORMATION: PP&L operates a steam electric generating station at Derry Township, Pennsylvania. The order under consideration addresses emissions from boiler units 1 and 2 at the facility, which are subject to Section 123.11 of Title 25 of the Pennsylvania Code. The regulation limits the emissions of particulate matter and is part of the federally approved Pennsylvania State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through installation of a sulfur trioxide (SO₃) flue gas conditioning system as well as mechanical and electrical modifications to the existing electrostatic precipitators. PP&L has consented to the terms of the order.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. Based on a preliminary review of the order, EPA presently believes it is approvable as a delayed compliance order.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Pennsylvania SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: April 6, 1979.

Jack J. Schramm,
Regional Administrator, Region III.

[FR Doc. 79-12181 Filed 6-12-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 65]

[FRL 1246-7]

State and Federal Administrative Enforcement of Implementation Plan Requirements After Statutory Deadlines; Proposed Delayed Compliance Order for Whitehead Brothers Co. Dividing Creek, N.J.

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: The EPA proposes to issue an administrative Order pursuant to Section 113(d)(3) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.* ("the Act"), requiring the Whitehead Brothers Company ("Whitehead") to bring a sand producing facility located at Dividing Creek, New Jersey, into compliance with certain regulations contained in the federally-approved New Jersey State Implementation Plan ("SIP"). The proposed Order would establish a final compliance date by Whitehead of July 1, 1979 because of the inability of this source to comply with these regulations at this time. Source compliance with this Order would preclude suits under the federal enforcement and citizen suit provisions of the Act for violation of the SIP regulations covered by this Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of this Order.

DATES: Written comments and requests for a public hearing must be received on or before July 13, 1979. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after thirty days notice of

the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to: Meyer Scolnick, Director, Enforcement Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007.

Material supporting this Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Samuel P. Moulthrop, Attorney General Enforcement Branch, Enforcement Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007, (212) 264-5695.

SUPPLEMENTARY INFORMATION: The Whitehead Brothers Company owns and operates a plant which produces foundry sand in Dividing Creek, New Jersey. The Order under consideration concerns emissions from the Number 3 cooling unit, which are subject to the requirements of Title 7, Chapter 27, Subchapter 6 of the New Jersey Administrative Code. This regulation limits the emission of particulate matter and is part of the federally-approved State Implementation Plan for the Air Quality Control Region in which the source is located.

Whitehead has proposed to comply with the emission limitation by terminating the production of foundry sand and the operation of the cooling unit at the Dividing Creek plant. The Order requires that the operation of the cooling unit cease no later than July 1, 1979. As a condition of the issuance of the Order, Whitehead has posted a bond in the amount of \$98,000.00, which shall be forfeited if Whitehead fails to terminate the operation of the cooling unit. The amount of the bond is equal to the cost of actual compliance by the plant plus the economic value which would accrue to Whitehead by reason of failure to comply. The source has consented to the issuance of the Order and to its terms.

The proposed Order satisfies the applicable requirements of Section 113(d) of the Act. If the Order is issued, source compliance would preclude further EPA enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of Section 304 of the Act would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue these Orders. Testimony given at any public hearing concerning the Orders will also be considered. After the public comment period and any public hearing, the Administrator of the EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

Dated: April 20, 1979.

Eckardt C. Beck,

Regional Administrator, Region II.

1. The text of the Order reads as follows:

U.S. Environmental Protection Agency, Region II

In the matter of Whitehead Brothers Company (Dividing Creek, New Jersey).

Consent Order; Index No. 70104

Findings

1. Whitehead Brothers Company (Whitehead) is a New Jersey Corporation located at 60 Hanover Road, Florham Park, New Jersey. Whitehead owns and operates a sand manufacturing facility at Dividing Creek, New Jersey.

2. On November 11, 1976 the United States Environmental Protection Agency (EPA) issued a Notice of Violation, pursuant to Section 113(a)(1) of the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.* (the Act), to Whitehead. The Notice of Violation was issued upon a finding that emissions from Whitehead's facility at Dividing Creek, New Jersey were in violation of N.J.A.C. 7:27-6.2(a) and Section 52.1577 of Title 40 of the Code of Federal Regulations. Specifically, emissions from the facility's Number 3 Cooler cyclones were found to be in violation of the particulate emission limitations of N.J.A.C. 7:27-6.2(a). The finding of violation was based upon stack tests conducted by the New Jersey Department of Environmental Protection in 1971 and admissions by Whitehead that the violation was not corrected. A conference between EPA and Whitehead was held on March 15, 1977 in accordance with Section 113(a)(4) of the Act.

3. In June, 1978 Whitehead conducted a stack test of the emissions from the Number 3 Cooler cyclones at said Dividing Creek facility. The test results indicated that the emissions continued to violate N.J.A.C. 7:27-6.2(a).

4. Said regulation is a part of the federally-approved New Jersey State Implementation Plan (NJSIP) applicable to the Air Quality Control Region in which said Dividing Creek facility is situated.

5. The EPA finds that Whitehead's Dividing Creek facility (Number 3 Cooler cyclones) is presently in violation of the above-mentioned regulation and will be unable to comply until July 1, 1979.

6. Whitehead has acknowledged the above-mentioned violations and has notified the EPA in writing that it intends to terminate emissions from the Number 3 Cooler by July

1, 1979 by ceasing the production of foundry sand at the Dividing Creek facility.

7. In conformance with Section 113(d)(3) of the Act Whitehead has posted a bond in the amount of ninety-eight thousand dollars (\$98,000.00), an amount equal to the cost of actual compliance by the facility and any economic value which may accrue to Whitehead since August 7, 1977 (effective date of the Act) by reason of its noncompliance. Section 113(d)(3) authorizes EPA to issue an order, specifying compliance later than the final SIP compliance date without an interim schedule of compliance, only if the source owner posts such a bond.

8. The EPA has determined that Whitehead has acted in good faith and that it can, by meeting the terms of this Order, be in final compliance by July 1, 1979. The EPA has determined that the schedule embodied herein will provide for compliance as expeditiously as is practicable.

9. The EPA has determined that there exist no interim control measures which are practicably available to the Company to minimize air emissions during the period of delayed compliance at its Dividing Creek facility permitted by the terms of this Order.

10. Public notice, opportunity for a public hearing and thirty days notice to the State of New Jersey have been provided.

Order

Based upon the foregoing, after consideration of public comment, and pursuant to Section 113(d) of the Act, IT IS HEREBY ORDERED:

I. That Whitehead shall terminate all emissions from the Number 3 Cooler at its Dividing Creek, New Jersey facility and shall terminate the use of said Cooler no later than July 1, 1979.

II. That, no later than five days after the above-mentioned compliance date, Whitehead shall notify the EPA, Region II in writing of the status of its compliance. Said notice shall be directed to: Mr. Kenneth Eng, Chief, Air and Environmental Application Section, Status of Compliance Branch, Enforcement Division, U.S. Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.

III. Nothing herein shall affect the responsibility of Whitehead to comply with state or local regulations. This Order shall be terminated in accordance with Section 113(d)(8) of the Act if the Administrator (or his delegate) determines on the record, after notice and hearing, that an inability to comply with N.J.A.C. 7:27-6.2(a) no longer exists.

IV. Violation of any requirement of this Order shall result in one or more of the following actions:

A. Forfeiture of the bond posted by Whitehead in accordance with Section 113(d)(3) of the Act and the terms of the bond. The Administrator has no discretion under the Act to modify this Order or to compromise the bond.

B. Enforcement of such requirement pursuant to Section 113(a), (b) or (c) of the Act, including possible judicial action for an injunction or criminal prosecution.

C. Revocation of this Order, after notice and opportunity for a public hearing, and subsequent enforcement of N.J.A.C. 7:27-6.2(a) in accordance with the preceding paragraph.

D. If such violation continues beyond July 1, 1979, notice of noncompliance and subsequent action pursuant to Section 120 of the Act.

So Ordered, Effective Immediately
Douglas M. Costle,
Administrator, U.S. Environmental Protection Agency.

Date: _____

Consent

The undersigned, having full authority to represent the Whitehead Brothers Company in these proceedings, has read the foregoing Order and believes it to be reasonable, and consents to both its issuance and to its terms. Furthermore, the undersigned acknowledges that the Whitehead Brothers Company's facility at Dividing Creek, New Jersey has been and continues to be in violation of the requirements of N.J.A.C. 7:27-6.2(a). The undersigned recognizes that Whitehead is subject to all remedies provided in Section 113 of the Act for failure to comply with the terms of the foregoing Order.

(Name of Officer)

For Whitehead Brothers Company

Date: _____

[FR Doc. 79-18434 Filed 6-12-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

*Public Health Service, Center for
Disease Control*

[42 CFR Part 51g]

Health Education-Risk Reduction Grants

AGENCY: Center for Disease Control,
PHS, HEW.

ACTION: Notice of Decision to Develop
Regulations.

SUMMARY: The Center proposes to develop regulations which will be applicable to Health Education-Risk Reduction programs under Section 1703 of the Public Health Service Act. The regulations will establish procedures and requirements for awarding project grants to State and local health agencies to assist them in initiating or strengthening existing activities to help the agencies become the focal point for health risk reduction programs within their jurisdiction. The grants will encourage coordination of efforts by all agencies interested in this area. These grants will also serve as the nucleus for lifestyle activities by these agencies, with the final objective being a decrease

in premature and unnecessary morbidity and mortality. These programs will target activities at youth and at specific population groups with increased risk of premature morbidity and mortality related to adverse personal choice behavior.

FOR FURTHER INFORMATION CONTACT:
Mr. Billy G. Griggs, Deputy Director,
Bureau of Health Education, Center for
Disease Control, PHS, HEW, Atlanta,
Georgia 30333. Telephone: (404) 329-
3111 or FTS: 236-3111.

Dated: May 23, 1979.

Julius B. Richmond,
Assistant Secretary for Health.

[FR Doc. 79-18377 Filed 6-12-79; 8:45 am]

BILLING CODE 4110-88-M

Health Services Administration

[42 CFR Part 55a]

Program Grants for Coal Miners' Respiratory Clinics

AGENCY: Health Services
Administration, PHS, HEW.

ACTION: Notice of Decision to Develop
Regulations.

SUMMARY: HSA is proposing to develop amendments to the regulations governing program grants for Coal Miners' Respiratory Clinics. This grant program is authorized by the Federal Mine Safety and Health Act of 1977. HSA is considering an amendment which would delete certain restrictions on grantee eligibility. Present regulations limit eligibility to certain entities receiving grants from the Appalachian Regional Commission (ARC) or entities which are designated by the Governor of the State.

Other amendments under consideration would be made to (1) conform the regulations with recent advances in therapeutic care of patients with chronic obstructive pulmonary disease, (2) reflect changes that have occurred since 1974 in the diagnostic procedures required by the black lung disability benefits program, and (3) make technical conforming amendments in response to legislation which has been enacted since the promulgation of 42 CFR Part 55a in 1974.

FOR FURTHER INFORMATION CONTACT:
Mr. James J. Corrigan, Director, Division
of Policy Development, Bureau of
Community Health Services, HSA, 5600
Fishers Lane, Rockville, Maryland 20857,
telephone 301-443-1034.

Dated: May 14, 1979.

Charles Miller,
Acting Assistant Secretary for Health.

[FR Doc. 79-18376 Filed 6-12-79; 8:45 am]

BILLING CODE 4110-84-M

Office of the General Counsel

[45 CFR Parts 205 and 228; 42 CFR
Part 431]

**Case Assistance, Medical Assistance,
and Social Services Programs; Fair
Hearings**

AGENCY: Department of Health,
Education, and Welfare.

ACTION: Availability of Draft
Regulations.

SUMMARY: The Department of Health,
Education, and Welfare announces the
availability of draft regulations on the
fair hearings process for applicants and
recipients in the AFDC, Medicaid, and
Social Services programs.

The draft regulations have been
developed as part of the Department's
effort to simplify and clarify its
regulations. After further review within
the Department (and informal
consultation with interested parties) the
fair hearings regulations will be
published as a Notice of Proposed
Rulemaking, with an appropriate
comment period.

ADDRESS: A copy of the draft fair
hearings regulations may be obtained by
writing to: Annette Blum, Director, Joint
Recodification Project, Room 716-E,
Hubert Humphrey Building, 200
Independence Avenue, S.W.,
Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:
Annette Blum (202) 245-7542.

Dated: June 7, 1979.

Inez Smith Reid,
*Deputy General Counsel for Regulation
Review.*

[FR Doc. 79-18401 Filed 6-12-79; 8:45 am]

BILLING CODE 4110-12-M

FEDERAL MARITIME COMMISSION

[46 CFR 537]

[Docket No. 79-60]

**The Filing With the Commission of
Cargo Statistics Compiled by Various
Conferences of and Rate Agreements
Between, Common Carriers by Water
in the Foreign Commerces**

AGENCY: Federal Maritime Commission.

ACTION: Proposed Rulemaking.

SUMMARY: The Federal Maritime Commission hereby proposes the promulgation of a rule which would require the filing with the Commission annually of certain cargo statistics compiled by conferences of, and rate agreements between, common carriers by water engaged in the various foreign commerces of the United States.

DATE: Comments due on or before August 13, 1979.

ADDRESSES: Comments (original and fifteen copies) to:

Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Federal Maritime Commission is considering the promulgation of the proposed rule set forth below which would require the filing with the Commission annually of certain cargo statistics compiled by conferences of, and rate agreements between, common carriers by water engaged in the various foreign commerces of the United States. As envisaged by the Commission, nothing more than three copies of a final work product need be filed. Such information will not be made routinely available for public inspection and, to the extent that it is considered confidential, the Commission will make all efforts to preserve its confidentiality. Notice is given hereby, however, that nothing herein shall preclude the Commission from furnishing such statistical information in response to any legal process issued under the authority of any court or administrative tribunal, or of any officer or agent of the Government of the United States, or of any State, territory, district, or possession thereof, in the exercise of his powers and in the prosecution of his duties.

The reasons for the promulgation of this rule are several. First, the Commission is charged with the duty of maintaining a continuing surveillance of the activity of those persons subject to the Shipping Act, 1916 (the Act), and particularly those whose activity has been immunized from the antitrust laws pursuant to section 15. Section 15 of the Act requires the Commission to determine that any agreement is not unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and

their foreign competitors, detrimental to the commerce of the United States, contrary to the public interest or in any way violative of the Shipping Act, 1916, not only prospectively at the time of the Commission's initial approval, but actually during any term of that, finite or indefinite. Second, this obligation is not discharged fully unless the Commission is aware, somehow, of the impact upon our commerces of what it approved under section 15 of the Act. Minutes of meetings of the conferences' carriers now required to be filed pursuant to 46 CFR 537 are helpful but their value is diminished considerably if they cannot be reviewed by the Commission within some frame of reference. Third, many of the more significant agreements submitted for the Commission's approval by the various conferences usually require some sort of statistical evaluation to facilitate the Commission's determination as to whether or not, in the overall, they begin to meet the criteria required by section 15 of the Act of any approval. Fourth, the Commission has noticed that what would be submitted here is often sought by opponents of significant agreements in formal hearings, or is advanced by their proponents in furtherance of their justification. Thus, the ready availability of this information should serve to expedite formal hearings and, as significantly, should materially assist the Commission in determining whether formal hearings of particular matters are required at the outset, or whether something less than that will suffice in the particular circumstances. Fifth, the Commission has become aware of the fact that many conferences and ratemaking agreements presently compile statistics for their own purposes.

Accordingly, pursuant to section 4 of the Administrative Procedures Act (5 USC 553(b)) and sections 15, 21 and 43 of the Shipping Act, 1916 (46 USC 814, 820, and 841A) respectively; the Commission intends to expand upon 46 CFR 537—*Conference Agreement Provisions Relating to Concerted Activities*, by adding another section, § 537.5 Filing of statistical information, to read as follows:

§ 537.5 Filing of statistical information.

(1) *Definitions.*—(1) *Conferences.* Conferences of, or ratemaking agreements between, common carriers by water engaged in the foreign commerces of the United States.

(2) *Statistics.* Compilations of all cargoes transported port-to-port, point-to-port, and point-to-point by member lines of a conference whether compiled

by the conference's secretariat or by any of the conference's member lines but excluding statistics compiled by any member line solely for its own use and without distribution to or with the cooperation of any other member line.

(b) *Filing requirements.* (1) By April 30 annually, each conference which has compiled statistics for all or part of the preceding calendar year shall file three (3) copies of those statistics with the Director, Bureau of Ocean Commerce Regulation, Federal Maritime Commission. This filing shall cover the activity of its member lines for the preceding calendar year and its format shall be that as regularly compiled by the conference. In the event the statistics are incomplete, the conference's chairman or secretary shall submit an accompanying statement explaining the extent of, and reasons for, the deficiency.

(2) By April 30 annually, each conference which has not compiled statistics for all of the preceding calendar year shall file a statement to that effect, signed by the conference's chairman or secretary, with the Director, Bureau of Ocean Commerce Regulation, Federal Maritime Commission.

(c) *Status of filings and confidentiality.* (1) Copies of all statistics received shall be presumed correct by the Commission unless corrected subsequently by the filing conference.

(2) Copies of all statistics filed shall not be available for public inspection.

(3) Statistical information received pursuant to this rule may be used in any formal proceeding before the Commission provided it receives that protection afforded objected materials upon order of an administrative law judge of the Commission as set forth in Rule 167 of the Commission's Rules of Practice and Procedure (46 CFR 502.167).

(4) Statistical information received pursuant to this rule may be used with respect to any matter undertaken by the Commission or its staff. If the statistical information should in any way serve to support any Commission action, as reflected in an appropriate order, then such statistical information shall be distributed to parties of interest only to the same extent, and under the same protection, as is afforded objected material in Rule 167 of the Commission's rules of practice and procedure (46 CFR 502.167). Any claim to confidentiality is waived if a conference submits the data encompassed by this rule as justification for, or in support of, any Commission action.

Interested parties may participate in this rulemaking proceeding by filing

with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 13, 1979, an original and 15 copies of their views or arguments pertaining to the proposed rules. All suggestions for changes in the text as set out above should be accompanied by drafts of the language thought necessary to accomplish the desired change and should be supported by statements and arguments relating to the proposed change. Bearing in mind that what the Commission anticipates receiving annually in compliance with this rule are three copies of a final work product, each interested person submitting comment and in a position to do so will provide the Commission with an estimate of the total financial burden which will be incurred annually by the promulgation of this rule, as well as an estimate of the number of employee hours to be allocated annually.

The Federal Maritime Commission, Bureau of Hearing Counsel, shall participate in the proceeding. Bureau of Hearing Counsel shall file Reply to Comments on or before August 27, 1979 by serving an original and 15 copies on the Federal Maritime Commission and one copy on each party who filed written comments. Answers to Hearing Counsel's replies shall be submitted to the Federal Maritime Commission on or before September 7, 1979.

By the Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 79-18459 Filed 6-12-79; 8:45 am]
BILLING CODE 6730-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

Endangered and Threatened Wildlife and Plants; Review of the Status of Ten Birds and Two Mammals From Guam

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of Comment Period.

SUMMARY: In the Federal Register of Friday, May 18, 1979 (44 FR 29128), the Service requested that all pertinent comments on its status review of ten birds and two mammals from Guam be received before June 17, 1979. The service now feels that this allows too short a time frame within which to adequately respond to the review notice and has therefore extended the comment period.

DATE: The comment period is extended to August 18, 1979.

ADDRESS: All comments should be sent to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: John L. Spinks, Jr., (703) 235-2771.

Dated: June 7, 1979.

Lynn A. Greenwalf,
Director, Fish and Wildlife Service.

[FR Doc. 79-18508 Filed 6-12-79; 8:45 am]

BILLING CODE 4310-55-M

[50 CFR Part 70]

National Fish Hatcheries

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed Rulemaking.

SUMMARY: This proposal would amend Part 70 by changing cross-references to the National Wildlife Refuge System contained therein in order that such references accurately cite the appropriate parts of the National Wildlife Refuge System regulations. Additionally, the proposal would apply the administration provisions for the National Wildlife Refuge System to national fish hatchery areas; such provisions are presently unaddressed.

DATES: Comments on these proposed regulations must be received on or before July 13, 1979.

ADDRESSES: The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed revision. Comments should be addressed to the Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036, and should refer to the file number, REG 70-02-2.

Comments received will be available for public inspection during normal business hours at the Service's Division of Law Enforcement, Suite 600, 1612 K Street, N.W., Washington, D.C. 20006. **FOR FURTHER INFORMATION CONTACT:** Robert W. Thoesen, Chief, Division of National Fish Hatcheries, telephone: 343-2197.

SUPPLEMENTARY INFORMATION: For some time prior to the 1977 revision of Title 50, Code of Federal Regulations, sections of the National Fish Hatcheries regulations found in Part 70 of Title 50, CFR, have contained inaccurate references to corresponding sections in Parts 25-31 of Title 50, CFR. This

proposal would correct those references and would add a further cross-reference that would incorporate the administrative provisions of Part 25 in the national fish hatcheries regulations. Such provisions would provide regulations for public notice, permits, appeals, fees, concessions, safety, and closing national fish hatcheries.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Note.—The Service has determined that this proposed rulemaking is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this proposed rulemaking is Richard A. Stephan, Legal Specialist, Fish and Wildlife Service.

Accordingly, it is hereby proposed to revise Part 70 of Title 50, Code of Federal Regulations, to read as set forth below.

SUBCHAPTER E—MANAGEMENT OF FISHERIES CONSERVATION AREAS

PART 70—NATIONAL FISH HATCHERIES

Sec.

70.1 Purpose.

70.2 Administrative provisions.

70.3 State cooperation in national fish hatchery area management.

70.4 Prohibited acts.

70.5 Enforcement, penalty, and procedural requirements for violations of Parts 25, 26, and 27.

70.6 Public entry and use.

70.7 Land-use management.

70.8 Range and feral animal management.

70.9 Wildlife species management.

Authority.—Sec. 4, 48 Stat. 402, as amended, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 664; 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.

§ 70.1 Purpose.

All national fish hatchery areas are maintained for the fundamental purpose of the propagation and distribution of fish and other aquatic animal life and managed for the protection of all species of wildlife.

§ 70.2 Administrative provisions.

The provisions and regulations set forth in Part 25 of this chapter are equally applicable to national fish hatchery areas.

§ 70.3 State cooperation in national fish hatchery area management.

State cooperation may be enlisted in management programs including public

hunting, fishing, and recreation. The details of these programs shall be mutually agreed upon by the Secretary and the head of the appropriate State agency in cooperative agreements executed for the purpose. Persons entering upon a national fish hatchery area shall comply with all regulations issued by the State agency under the terms of the cooperative agreement.

§ 70.4 Prohibited acts.

(a) The prohibited acts enumerated in Part 27 of this chapter are equally applicable to national fish hatchery areas.

(b) Fishing, taking, seining, or attempting to fish, take, seine, any fish, amphibian, or other aquatic animal on any national fish hatchery area is prohibited except as may be authorized under the provisions of Part 71 of this chapter.

(c) Hunting, killing, capturing, taking, or attempting to hunt, kill, capture, or take any animal on any national fish hatchery area is prohibited except as may be authorized in the provisions of Part 71 of this chapter.

(d) Disturbing spawning fish or fish preparing to spawn in ponds, raceways, streams, lakes, traps, and below traps, ladders, fish screens, fishways and racks is prohibited.

§ 70.5 Enforcement, penalty, and procedural requirements for violations of Parts 25, 26, and 27.

The enforcement, penalty, and procedural requirement provisions set forth in Part 28 of this chapter are equally applicable to national fish hatchery areas.

§ 70.6 Public entry and use.

The public entry and use provisions set forth in Part 26 of this chapter are equally applicable to National fish hatchery areas.

Note.—For Federal Register citations to special regulations issued under § 70.6, see the List of CFR Sections Affected.

§ 70.7 Land-use management.

The land-use management provisions set forth in Part 29 of this chapter are equally applicable to national fish hatchery areas.

§ 70.8 Range and feral animal management.

The range and feral animal management provisions set forth in Part 30 of this chapter are equally applicable to national fish hatchery areas.

§ 70.9 Wildlife species management.

The wildlife species management provisions set forth in Part 31 of this

chapter are equally applicable to national fish hatchery areas with exception of § 31.15, relating to hunting and fishing, which are treated separately in this Part.

Dated: May 30, 1979.

Lynn A. Greenwalt,
Director.

[FR Doc. 79-18446 Filed 6-12-79; 8:45 am]

BILLING CODE 4310-55-M

Dated: June 8, 1979.

William Y. Brown,
Executive Secretary, Endangered Species
Scientific Authority.

[FR Doc. 79-18285 Filed 6-12-79; 8:45 am]

BILLING CODE 4310-55-M

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

[50 CFR Part 810]

Export Findings for American Alligator; Public Hearing on July 10, 1979

AGENCY: Endangered Species Scientific Authority.

ACTION: Notice of Public Hearing.

SUMMARY: The Endangered Species Scientific Authority (ESSA) will hold an informal public hearing on July 10, 1979. The hearing will concern information needed to satisfy the ESSA that export will not be detrimental to the survival of American alligator or to the survival of other species of crocodilians included in the appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The ESSA published proposed findings on May 31, 1979 (44 FR 31584), with a comment period open until July 30, 1979. The hearing is one of several steps being taken by the ESSA to ensure maximum public input for its determinations.

DATE: The hearing will be held from 10 a.m. until 6 p.m. on Tuesday, July 10, 1979, at the following address: Room 8070 (Penthouse), Main Interior Building, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Dr. Peter C. Escherich, (202) 653-5948.

SUPPLEMENTARY INFORMATION: Statements should be limited to information and analysis relevant to ESSA findings on export of this species and to the potential effect of its export on this and other species of crocodilians. Appointments to speak may be made with the Office of the Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets, NW., Washington, D.C. 20240 (202-653-5948). Participants without prior appointments will be given opportunity to speak, but only to the extent that time allows following speakers with appointments.

Notices

Federal Register

Vol. 44, No. 115

Wednesday, June 13, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Foster Grandparent and Senior Companion Programs; Income Eligibility Levels

This notice revises the schedule of income eligibility levels for individuals and families for the Foster Grandparent Program and the Senior Companion Program published in the Federal Register of January 8, 1979 (44 FR 1768). The revised schedule is based on the Community Services Administration (CSA) Income Poverty Guidelines effective June 6, 1979 and by the addition, through the Comprehensive Older Americans Act Amendments of 1978, of a new Subsection (f) to Section 211 of the Domestic Volunteer Service Act of 1973 to extend the eligibility for participation in the Foster Grandparent/Senior Companion Programs to individuals with an income not greater than 125% of the poverty level. Income eligibility levels are further increased in certain states in the amounts by which individual states have supplemented the Federal Supplemental Security Income (SSI) Summary dated October 1, 1978. The Director of ACTION has determined that the addition of such amounts to the SSI Summary is an existing poverty guideline within the meaning of Section 421(d) of the Domestic Volunteer Service Act of 1973 (42 U.S.C., 5061(d)), and that persons whose income is at or below the supplemented SSI level are "poor" or "low income" persons within the meaning of such section, and are eligible to participate in the Foster Grandparent and Senior Companion programs.

These ACTION programs are authorized pursuant to Section 211 of the Domestic Volunteer Service Act of 1973, Pub. L. 93-113, 87 Stat. 402.

Pursuant to Section 421 (4) of Pub. L. 93-113, 87 Stat. 414, the income eligibility levels are determined by the currently applicable guideline published by CSA pursuant to Section 625 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2971 (a)), and increased by the amounts individual States supplement the Federal Supplemental Security Income, permitting ACTION, in accordance with Section 421 (4) of Pub. L. 93-113, to take into consideration

existing poverty guidelines as appropriate to local situations. Section 625 of the Economic Opportunity Act of 1964 permits the CSA poverty guidelines to be adjusted for cost-of-living changes.

The income eligibility levels will be reviewed at least once a year, and similar schedules will be prepared to reflect any changes required as a result of that review.

This policy will become effective on June 6, 1979.

Schedule of Income Eligibility Levels—Foster Grandparent and Senior Companion Programs

(Effective date June 6, 1979)

State	Individuals	Family of two	Family of three
Alabama	\$4,250	\$5,840	\$7,215
Alaska	6,730	9,125	13,840
Arizona	4,250	5,625	7,000
Arkansas	4,250	5,625	7,000
California	5,670	9,110	10,485
Colorado	4,730	7,715	9,090
Connecticut	5,530	8,180	9,555
Delaware	4,250	5,625	7,000
District of Columbia	4,250	5,625	7,000
Florida	4,250	5,625	7,000
Georgia	4,250	5,625	7,000
Hawaii	5,035	6,780	8,355
Idaho	5,135	6,585	7,960
Illinois	4,250	5,625	7,000
Indiana	4,250	5,625	7,000
Iowa	4,250	5,625	7,000
Kansas	4,250	5,625	7,000
Kentucky	4,250	5,625	7,000
Louisiana	4,250	5,625	7,000
Maine	4,370	5,805	7,180
Maryland	4,250	5,625	7,000
Massachusetts	5,765	7,965	9,360
Michigan	4,635	6,205	7,580
Minnesota	4,510	5,950	7,325
Mississippi	4,250	5,625	7,000
Missouri	4,250	5,625	7,000
Montana	4,250	5,625	7,000
Nebraska	5,315	6,750	8,125
Nevada	6,730	6,550	7,925
New Hampshire	4,725	6,080	7,455
New Jersey	4,460	5,730	7,105
New Mexico	4,250	5,625	7,000
New York	4,980	6,535	7,910
North Carolina	4,250	5,625	7,000
North Dakota	4,250	5,625	7,000
Ohio	4,250	5,625	7,000
Oklahoma	4,755	6,575	7,950
Oregon	4,395	5,745	7,120
Pennsylvania	4,640	6,210	7,585
Rhode Island	4,650	6,385	7,760
South Carolina	4,250	5,625	7,000
South Dakota	4,430	5,805	7,180
Tennessee	4,250	5,625	7,000
Texas	4,250	5,625	7,000
Utah	4,370	5,745	7,120
Vermont			
Area 1	4,630	6,190	7,565
Area 2	4,650	6,440	7,815
Virginia	4,250	5,625	7,000
Washington			
Area 1	4,740	6,160	7,535
Area 2	4,525	5,770	7,145
West Virginia	4,250	5,625	7,000
Wisconsin	5,285	7,295	8,670
Wyoming	4,490	6,105	7,480
Guam	4,250	5,625	7,000
Puerto Rico	4,250	5,625	7,000
Virgin Islands	4,250	5,625	7,000

Schedule of Income Eligibility Levels—Foster Grandparent and Senior Companion Programs—Continued

(Effective date June 6, 1979)

State	Individuals	Family of two	Family of three
For families of more than three persons in the household, add the appropriate supplement for each member over three as follows:			
In the 48 contiguous states.....			\$1,375 per person
Alaska.....			1,713 per person
Hawaii.....			1,575 per person

Revision based on Community Services Administration Income Poverty Guidelines effective June 6, 1979, increased by the DHEW Supplemental Security Income Summary dated October 1, 1978.

Sam Brown,
Director.

[FR Doc. 79-18219 Filed 6-12-79; 8:45 am]
BILLING CODE 6050-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Pacific Crest National Scenic Trail;
Notice of Relocation; Correction

The notice of relocation published in FR volume 44, page 27464, doc. #79-14616, column 1, dated May 10, 1979, is revised by adding the following paragraph to the end of the description of Segment A:

Page 2837, Column 2, delete the following described private lands,

Mount Diablo Meridian

Township, Range and Section

38 North, 9 West, 3 and 5.

Private land ownership is involved in the change in location of Segment A. Written concurrence from the landowner is on file in the Supervisor's Office, Shasta-Trinity National Forest. R. M. Housley,
Associate Deputy Chief.

[FR Doc. 79-18333 Filed 6-12-79; 8:45 am]
BILLING CODE 3410-11-M

Soil Conservation Service

Oil Creek Watershed, Pa.; Intent To
Prepare an Environmental Impact
Statement

Pursuant to Section 102(c)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Oil Creek Watershed, Crawford, Erie, Warren, and Venango Counties, Pennsylvania.

The environmental assessment of this federally-assisted action indicates that the action may cause significant local,

regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this action.

The action concerns a plan for watershed protection and flood prevention. The planned works of improvement already installed consist of accelerated land treatment measures. Planned project features to be installed include three single-purpose floodwater retarding dams with a combined controlled drainage area of approximately 47 square miles.

A draft environmental impact statement will be prepared for the entire project and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Federal Building and U.S. Courthouse, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone number (717) 782-2202.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 100-1008)

Dated: June 5, 1979.

Joseph W. Haas,
Assistant Administrator for Water Resources.
[FR Doc. 79-18367 Filed 6-12-79; 8:45 am]
BILLING CODE 3410-16-M

Tennessee Creek Watershed, Ga.; Intent
Not To File an Environmental Impact
Statement for Deauthorization of
Federal Funding

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not

being prepared for the deauthorization of Federal funding of the Tennessee Creek Watershed, Lumpkin and White Counties, Georgia.

The watershed was planned in 1960 and 1967 and approved for operations in 1969. None of the planned structural measures, consisting of 11 miles of channel modification, 5 single-purpose floodwater retarding structures, 1 multipurpose structure for flood prevention and municipal water supply, and 1 multipurpose structure for flood prevention and recreation development, have been installed. The sponsoring local organizations made the decision not to implement the project.

The environmental assessment of this action indicates that deauthorization of Federal funding will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Dwight M. Treadway, State Conservationist, has determined that an environmental impact statement is not needed for the proposed deauthorization.

The basic data acquired during the development of the plan and environmental assessment may be reviewed at the Soil Conservation Service, 355 East Hancock Avenue (P.O. Box 832), Athens, Georgia 30603 (telephone: 404-546-2275).

The notice of intent not to file an environmental impact statement, and an environmental impact appraisal, have been forwarded to the Environmental Protection Agency as well as other interested agencies and organizations. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until August 13, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83-566, 16 U.S.C. 1001-1008)

Dated: May 30, 1979.

Joseph W. Haas,
Assistant Administrator for Water Resources,
Soil Conservation Service.

[FR Doc. 79-18368 Filed 6-12-79; 8:45 am]
BILLING CODE 3410-16-M

Willow Creek Watershed, Wis.; Intent
Not To File an Environmental Impact
Statement for Deauthorization of
Federal Funding

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil

Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for deauthorization of Federal funding of the Willow Creek Watershed, Richland and Sauk Counties, Wisconsin.

The environmental assessment of this action indicates it will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. J. C. Hytry, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The project concerns a plan for watershed protection, flood prevention, and enhancement of fish and wildlife resources. The planned works of improvement include seven singly-purpose floodwater retarding structures and 2 miles of trout stream improvement.

The notice of intent not to file an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 4601 Hammersley Road, Madison, Wisconsin 53711. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until August 13, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83-566, 16 U.S.C. 1001-1008)

Date: June 1, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources,
Soil Conservation Service.

[FR Doc. 79-18369 Filed 6-12-79; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Order 79-6-19; Docket 34242]

Florida Airlines, Inc. Fitness Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-6-19, Docket 34242, *Florida Airlines, Inc. Fitness Investigation*.

SUMMARY: The Board is proposing to grant the application of Florida Airlines, Inc. for a certificate of public convenience and necessity under section 401(b) of the Federal Aviation Act of 1958, as amended, authorizing it to provide interstate air transportation between the following points: Atlanta, Ga., Brunswick, Ga., St. Simons Island, Ga., Waycross, Ga., Hilton Head Island, S.C., Jacksonville, Fla., Tampa, Fla., Sarasota, Fla., Ft. Myers, Fla., Miami, Fla., and Ft. Lauderdale, Fla. The grant would be contingent upon a finding that the carrier is fit, willing and able to perform properly the proposed transportation and to conform to the provisions of the Act and the Board's applicable rules and regulations, and, for certain markets, contingent on the outcome of the *Florida Service Case*, Docket 33091. The order accordingly institutes the *Florida Airlines, Inc. Fitness Investigation*. The complete text of the order is available as noted below.

DATES: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, a statement of objections, together with a summary of the testimony, statistical data and other material expected to be relied upon to support the stated objections;

(a) Where the objections are on grounds other than fitness, no later than July 9, 1979.

(b) Where the objections are on fitness grounds, by such time as shall be designated by the administrative law judge assigned to the case. Comments on the evidence request for this proceeding shall be filed no later than June 25, 1979. An example of our standard evidence request appears at 44 FR 33135 June 8, 1979.

ADDRESSES: All objections should be filed in Docket 34242, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Ava Scheinman, B-72, Bureau of Domestic Aviation, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5842.

SUPPLEMENTARY INFORMATION: Objections should be served upon Florida Airlines, Inc.

The complete text of Order 79-6-19 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-6-19 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: June 5, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-18415 Filed 6-12-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket 33363]

Former Large Irregular Air Service Investigation; Hearing

Hearings on applications in Docket 33363 will be held in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D. C. 20428, at 9:00 a.m., during the month of July 1979 as follows:

Duncan Tours, July 2
Lelco, Inc., July 9
Homerick Airlines, July 16
Overseas Military Travel Corp., d/b/a Militair, July 23
Robert G. Rutkoski, d/b/a/, Northeastern Airlines, July 26
Lone Star Airways, July 31

Dated at Washington, D. C., 8 June 1979.

Rudolf Sobernheim,
Administrative Law Judge.

[FR Doc. 79-18413 Filed 6-12-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket 30662]

The Flying Tiger Line, Inc. v. Scandinavian Airlines System; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled proceeding is assigned to be held on June 20, 1979, at 10:00 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

The matters to be considered at the conference are those remanded to the administrative law judge by the Board's Orders 78-8-86 of August 17, 1978, and 79-4-59 of April 6, 1979.

Dated at Washington, D.C., June 7, 1979.

William A. Kane, Jr.,
Administrative Law Judge.

[FR Doc. 79-18414 Filed 6-12-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket 35752]

Wild Card Route Case; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 28, 1979, at 9:30 a.m. (local time) in Room 1003, Hearing Room D, Universal Building North, 1975 Connecticut

Avenue NW., Washington, D.C., before Administrative Law Judge William H. Dapper.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and three copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of International Aviation will circulate its material on or before June 18, 1979, and the other parties on or before June 22, 1979. The submissions of the other parties shall be limited to points on which they differ with the Bureau of International Aviation, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., June 8, 1979.

William H. Dapper,
Administrative Law Judge.

[FR Doc. 79-18412 Filed 6-12-79; 8:45 am]
BILLING CODE 6320-01

COMMISSION ON CIVIL RIGHTS

Connecticut Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U. S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee SAC of the Commission will convene at 7:00 pm and will end at 10:00 pm, on July 26, 1979, at the hotel Sheraton, 315 Trumbull Street, Hartford, Connecticut.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New-England Regional Office of the Commission, 0/0 of 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. June 8, 1979.

John I. Binkley
Advisory Committee Management Officer.

[FR Doc. 79-18347 Filed 6-12-79; 8:45 am]
BILLING CODE 6335-01-M

Iowa Advisory Committee; Meeting Cancellation

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights,

that a planning meeting of the Iowa Advisory Committee (SAC) of the Commission scheduled for June 21, 1979 (FR Doc. 79-17408) on page 32269, has been cancelled.

Dated at Washington, D.C. June 8, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-18348 Filed 6-12-79; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Modification of Permit

Notice is hereby given that, pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Scientific Research Permit No. 93 issued to Dr. William W. Dawson and Mr. Nicholas R. Hall, University of Florida, College of Medicine, Gainesville, Florida 32610, on May 8, 1975 (40 FR 21507), as modified February 16, 1978 and June 2, 1978, is further modified as follows:

1. Section B is modified by deleting Section B-3 and substituting therefor the following:

"The animals shall be maintained at the Marine Mammal Foundation, South Pasadena, Florida, or Clearwater Marine Science Center, Clearwater Beach, Florida, for the purpose of conducting the research as described in the application. However, no dolphins shall be maintained at the Clearwater Marine Science Center until the facility has been inspected by a duly authorized representative of the National Marine Fisheries Service and approved in writing by the Assistant Administrator for Fisheries."

This modification is effective June 13, 1979.

The permit, as modified, and documentation pertaining to the modification is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C., and Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, Duval Building, St. Petersburg, Florida 33702.

Dated: May 23, 1979.

Winfred H. Meibohm,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 79-18283 Filed 6-12-79; 8:45 am]
BILLING CODE 3510-22-M

National Marine Fisheries Service; Issuance of Permit

On April 24, 1979, Notice was published in the Federal Register (44 FR 24120), that an application had been filed with the National Marine Fisheries Service by Zoogesellschaft Osnabruck E.V., Am Waldzoo 2/3, 45 Osnabruck, Federal Republic of Germany, to take four (4) California sealions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on June 1, 1979, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a public display permit for the above taking to Zoogesellschaft Osnabruck, subject to certain conditions set forth therein.

The Permit is available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: June 1, 1979.

Winfred H. Meibohm,
Executive Director, National Marine
Fisheries Service.

[FR Doc. 79-18295 Filed 6-12-79; 8:45 am]
Billing Code 3510-22-M

National Marine Fisheries Service; Modification of Permit No. 42

Notice is hereby given that pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 42 issued to the Northwest Fisheries Center, National Marine Fisheries Service, Seattle, Washington 98112, on September 5, 1974 (39 FR 33386).

Sections A.1 and A.2 have been changed to read:

A. Number and kind of marine mammals.—1. Bowhead whales (*Balaena mysticetus*) may be taken, in that such whales or parts of such whales may be collected for the purposes stated in the application. There is no restriction

on the number of specimens which may be collected.

2. Gray whales (*Eschrichtius robustus*) may be taken in that such whales or parts of such whales may be collected for the purposes stated in the application. There is no restriction on the number of specimens which may be collected.

This modification makes Permit No. 42 consistent with its counterpart which was issued under the Endangered Species Act on May 27, 1975. The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries,
National Marine Fisheries Service,
3300 Whitehaven Street, NW,
Washington, D.C.; and
Regional Director, National Marine
Fisheries Service, Northwest Region,
1700 Westlake Avenue North, Seattle,
Washington 98109.

Dated: May 31, 1979.

Winfred H. Meibohm,
Associate Director, National Marine
Fisheries Service.

[FR Doc. 79-18296 Filed 6-12-79; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

[Dept. Organization Order 20-6]

Office of Investigations and Security; Functions and Organization

EFFECTIVE DATE: May 17, 1979.

This order effective May 17, 1979 supersedes the materials appearing at 38 FR 34134 of December 11, 1973 and 39 FR 43565 of December 16, 1974.

Section 1. Purpose

.01 This Order prescribes the functions and organization of the Office of Investigations and Security.

.02 This revision provides for new responsibilities in connection with security of foreign and domestic intelligence liaison. It reflects the transfer to the Office of the Inspector General the responsibility for the investigation of violations of the United States Code and the performance of contractors or grantees, including alleged violations of law or improprieties by such parties as well as inspections relating to the conduct and performance of Department personnel dealing with such parties. It also authorizes the Office of Investigations and Security to act as the final repository for all investigative files and reports of investigation of Department of

Commerce applicants, employees, or former employees.

Section 2. Status and Line of Authority

.01 The Office of Investigations and Security (OIS), a Departmental office, shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Administration (the "Assistant Secretary"). The Director shall be assisted by a Deputy Director who shall perform the functions of the Director during the latter's absence, and exercise day-to-day supervision over the documentary security and physical security functions of OIS, as set forth in section 3. of this Order.

.02 The Director, OIS, may redelegate the authority, as prescribed by this Order, to appropriate personnel of OIS and to operating units of the Department, subject to such conditions as the Director may prescribe.

Section 3. Responsibilities and Functions.

Pursuant to the authority vested in the Assistant Secretary by Department Organization 10-5, and subject to such policies and directives as the Assistant Secretary may prescribe, OIS shall conduct investigations in accordance with paragraph 3.01 of this Order, serve as the focal point for personnel security matters within the Department, establish policies and procedures for documentary security and physical security throughout the Department, advise the Assistant Secretary on all security matters, represent the Department as appropriate on security matters, and carry out physical protection assignments, as prescribed herein. To implement these responsibilities, OIS shall perform the functions enumerated in the following paragraphs.

.01 *Investigations.* OIS shall: a. As requested, conduct investigations of job applicants and employees regarding personnel security (in accordance with E.O. 10450 and Federal Personnel Manual, Chapter 736), and personnel suitability (in accordance with orders and regulations of the Department and of the Office of Personnel Management).

b. As requested by appropriate authority, conduct investigations of complaints of discrimination under, e.g., E.O. 11478, the Equal Employment Opportunity Act of 1972 and implementing regulations, and other administrative and civil matters as permitted by law.

c. As requested, provide investigative services to Departmental programs requiring National Agency Checks, special name checks and inquiries to

ascertain the integrity of contractors, grantees and other financial assistance applicants and recipients, as well as advisory committee members.

d. As requested by the Inspector General, conduct investigations of matters under the Inspector General's jurisdiction.

.02 *Personal Security.* OIS shall: a. Develop and recommend policies and procedures for personnel security matters within the Department.

b. Develop and supervise programs for the training and indoctrination of employees in personnel security and the maintenance of security discipline.

c. Receive and review reports of investigation of Department employees and job applicants and, as appropriate, channel the information to the responsible operating unit official for suitability determination.

d. Receive from the Office of the Inspector General notifications of investigations and inspections concerning employee misconduct for appropriate review, evaluation and action under the provisions of E.O. 10450 as amended and E.O. 12065.

e. Receive and process from the various operating units requests for security clearances concerning prospective employees to be assigned to positions that require access to classified information, material, or restricted areas; and review and determine the security status of personnel cases which involve the appraisal of derogatory information in connection with the issuance of certificates of personnel security clearance, the imposition of security restrictions on individual employees, and other decisions affecting personnel security considerations.

f. Take action, as appropriate, on withholding or withdrawing the security clearance of a job applicant, employee, potential contractor, or grantee, and with respect to employees, recommend action under the provisions of 5 U.S.C. §§ 7531-32 and E.O. 10450, as amended.

.03 *Documentary Security.* OIS shall: a. Establish appropriate security policies, procedures, and minimum requirements for the Department's safeguarding of classified documents, information, and materials in accordance with E.O. 12065.

b. Develop and supervise programs for the training and indoctrination of Department personnel in documentary security.

.04 *Physical Security.* OIS shall: a. Develop and prescribe, in accordance with E.O. 12065, necessary measures for the protection of classified and

restricted areas, and for the control of access to such areas.

b. In conjunction with GSA's Federal Protective Service and in accordance with GSA regulations, establish and enforce policies and procedures for controlling access of visitors to unclassified areas, including access by employees during periods of civil disturbance or emergency.

.05 *Intelligence Security*. OIS shall: a. Provide security advice and guidance to the Departmental Office of Intelligence Liaison (OIL) and throughout the Department with full authority to implement and require compliance with security measures established by the Memorandum of Understanding on the Security of Foreign Intelligence between the Department of Commerce and the Member Agencies of the National Foreign Intelligence Board.

b. Provide guidance for the physical security and transmittal of foreign intelligence material, both collateral and compartmented.

c. In cooperation with OIL, concur in the selection of foreign intelligence primary control centers and officers for Department facilities not located in the Main Commerce Building, which are to receive foreign intelligence reports and materials, and provide, as required, guidance and coordination of their activities.

d. In coordination with OIL, concur in the selection of foreign intelligence secondary control centers and officers in the Department, which are to receive foreign intelligence reports and materials through the registry or a primary control center, and provide, as required, guidance and coordination of their activities.

e. OIS and OIL shall coordinate on sensitive compartmented information security clearance matters.

f. In conjunction with the Departmental Office of Procurement and ADP Management and OIL, review and approve all existing uses and proposals for the use of any ADP equipment (including computers, word processing devices, and related equipment) in the processing of classified foreign intelligence.

g. Serve as the focal point for the security of designated intelligence matters, foreign and domestic, between the Department and the intelligence community.

h. Provide the Department's observer to the National Foreign Intelligence Board Security Committee and subcommittees.

.06 *Advice and Representation*. OIS shall: a. Serve as the principal adviser

within the Department to the Assistant Secretary and other officials on security matters.

b. Serve as the Department's point of liaison with agencies of Federal, State, and local governments in security matters, including administrative investigations, physical protection, and intelligence security.

c. Represent the Department, as requested, on interagency committees dealing with security.

.07 *Physical Protection Assignments*. OIS shall, at the request of the Assistant Secretary or other appropriate authority, provide physical protection for the Secretary of Commerce, visiting foreign officials and official guests, and Department functions. This may involve assignment of OIS personnel as special Deputy U.S. Marshals and the use of firearms and arrest powers provided in 18 U.S.C. 3053. (See section 4. of this Order.)

.08 *General Security*. OIS shall: a. Serve as the focal point within the Department for the receipt, review, and processing of security matters which require Departmental action.

b. Devise and carry out periodic tests of the adequacy of security within the Department.

Section 4. Specified Authority.

.01 To assist in their carrying out the physical protection functions assigned to OIS, the Director, OIS, and certain members of the OIS staff, under a special deputation from the United States Marshal, have been authorized to carry firearms and make arrests.

.02 Also, the Director, OIS, has been specifically designated by the Secretary of Commerce, under the provisions of Section 5-404, E.O. 12065, "to ensure effective implementation" of E.O. 12065, effective December 1, 1978. Concurrently, the Secretary established the Department of Commerce Information Security Program Committee and appointed the Director, OIS, as its chairperson.

Section 5. Savings Provisions.

Nothing in this Order shall have the effect of or be construed as an exception to the responsibility and authority of the Department General Counsel under DDO 10-6 for policy and operating guidance on legal matters. With respect to such matters the Director, OIS, shall

consult the General Counsel, or a designee of the General Counsel.

Guy W. Chamberlin, Jr.,

Acting Assistant Secretary for Administration.

[FR Doc. 79-18304 Filed 6-12-79; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Restraint Levels for Certain Cotton and Man-Made Fiber Apparel From the People's Republic of China

Corrections

In FR Doc. 79-17774 appearing at page 32433 in the issue for Wednesday, June 6, 1979, on pages 32433 and 32434, the table in the third and first columns respectively should have read as set forth below:

Category	Twelve-Month Level of Restraint	
331	2,946,006	dozen pairs
339	539,659	dozen
340	354,613	dozen
347/348	1,008,632	dozen
645/646	334,834	dozen

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare a Draft Supplement Environmental Impact Statement for the Proposed Burlington Dam Flood Control Project on the Souris River, N. Dak.

AGENCY: St. Paul District, U.S. Army Corps of Engineers.

ACTION: Notice of Intent to Prepare Draft Supplement I to the Burlington Dam Environmental Impact Statement (EIS).

SUMMARY: The project for flood damage reduction on the Souris River, North Dakota, recommended by the Chief of Engineers in House Document No. 321, 91st Congress, 2nd Session, provides for two major structural measures: channel modification through Minot, North Dakota and upstream reservoir development. The channel modification in Minot was approved by Senate and House Public Works Committees' resolutions adopted 25 June and 14 July 1970, respectively. The reservoir and related works were authorized later in the Flood Control Act approved 31 December 1970, Pub. L. 91-611. Construction of the Minot channel modifications, now completed, was authorized separately to provide limited

flood protection separately for the city at the earliest possible date.

The principal features of the reservoir project include a dam near Burlington on the Souris River; a raise of Lake Darling Dam, a diversion tunnel to carry flood flows on the Des Lacs River to the Souris River above Burlington Dam, levee improvements between Burlington and Minot and at Sawyer and Velva, and modifications to refuge dams in the Upper Souris and J. Clark Salyer National Wildlife Refuges.

In addition to the proposed action, the following reasonable alternatives have been identified:

1. *No Action*—The no action alternative is a viable alternative which represents no additional action on the part of the Corps of Engineers. Certain conditions are expected to occur in the future if none of the flood control measures that are discussed in this section are implemented. The no action alternative could include floodplain regulations, flood insurance, the existing channel modifications at Minot, flood warning and emergency protection, floodproofing, and rehabilitation of the Lake Darling Dam to meet current engineering standards for such a structure.

2. *Floodplain Evacuation*—This alternative involves the removal of all development in the 100-year Souris River floodplain between Burlington and the J. Clark Salyer Refuge.

3. *Boundary Diversion*—This alternative involves the diversion of the Souris River floodwaters immediately upon their entering the United States. The channel would parallel the Canadian border for a distance of about 45 miles.

4. *Flood Barriers*—This alternative would include upgrading existing emergency levees to current engineering standards for permanent levees in urban flood areas along the Souris River. These include nine subdivision areas between Burlington and Minot, and the cities of Minot, Logan, Sawyer and Velva.

5. *Minot Tunnel Diversion*—This alternative consists of:

a. Upgrading emergency levees at several residential areas between Minot and Burlington so that Souris River flows of 14,000 cfs could be passed with no flood damage.

b. A 2.2-mile diversion tunnel beneath Minot with a capacity of 9,000 cfs and 27 miles of channel modifications downstream of the tunnel.

c. Levees and channel modifications at Sawyer and Velva to provide a 100-year level of protection.

6. *Burlington Dam*—This alternative is identical to the recommended plan except that the Des Lacs diversion tunnel is not included.

7. *Lake Darling Dam*—This alternative is essentially a modification of the above alternative (i.e., the recommended plan without the Des Lacs diversion tunnel) in that the large reservoir storage structure would simply be located upstream at the site of the existing Lake Darling Dam.

8. *Confluence Dam*—This alternative has a dam located near Burlington below the confluence of the Souris and Des Lacs Rivers.

9. *Burlington Dam and Des Lacs Tributary Dams*—This alternative includes Burlington Dam as discussed in alternative no. 8, in combination with dams on 19 of the coulees tributary to the Des Lacs River.

10. *Recommended Plan*—See discussion under project summary.

11. *Lake Darling Dam and Des Lacs Diversion*—This alternative is similar to alternative no. 7 (i.e., Lake Darling Dam) with the addition of a diversion tunnel from the Des Lacs River to the Souris River dam site.

12. *Burlington Dam, Des Lacs Diversion, Gassman Coulee Dam*—This alternative is the same as the recommended plan with the addition of a dry dam at the mouth of Gassman Coulee.

13. *Lake Darling Dam and Minot Tunnel Diversion*—This plan is a combination of alternatives 5 and 7, with the exception that the size of the tunnel beneath Minot would be reduced to a 5,000 cfs capacity.

14. *Lake Darling Dam and Flood Barriers*—The features of this alternative are the same as alternative No. 13 except that the tunnel under Minot would be replaced by levees.

15. *Environmental Quality Plan (EQ Plan)*—The EQ alternative consists of the following items:

a. 14,000 cfs diversion tunnel under the city of Minot.

b. A low-head dam upstream of Minot to divert all flows above channel capacity into the diversion tunnel.

c. A low-head dam downstream of Minot to prevent backup of tunnel discharges.

d. Evacuation of the 100-year floodplain or floodproofing below Minot where flood stages are increased due to tunnel discharges, and evacuation of a mobile home park above Minot.

e. Local protection measures at Velva and at urbanized areas from Burlington to Minot.

f. Continuation of floodplain regulations downstream from Velva,

and enactment of floodplain regulations at Sawyer.

g. Improvements to marsh impoundments on the Upper Souris National Wildlife Refuge (NWR) to permit more efficient refuge operations.

h. Operation of the rehabilitated (to current engineering standards) Lake Darling Dam for flood control.

16. *National Economic Development Plan (NED Plan)*—This alternative would include a dam at the Lake Darling site (alternative No. 7) providing 383,000 acre-feet of flood control storage to elevation 1,620, and levees in three of seven subdivision areas between Burlington and Minot and at Velva.

Copies of the Draft Environmental Impact Statement, which has been filed with the Environmental Protection Agency and noted in the Federal Register on November 4, 1977, were provided for coordination to all concerned Federal, State, and local agencies; affected Indian tribes; and private organizations and individuals. Copies of the Draft Supplement EIS will be provided to all those identified above. Anyone else who is interested in reviewing this supplement is invited to do so and should contact the St. Paul District, Corps of Engineers to assure that they are included on the mailing list. The Final EIS has been prepared and is currently undergoing a preliminary review at the Washington level. When the Final EIS is ready for public distribution, we will append the Draft Supplement to it. After comments on the Draft Supplement and the Final EIS have been received, we will prepare and distribute a Final Supplement.

Significant issues to be analyzed in the Draft Supplement EIS include:

1. A Section 404(b) Evaluation of the discharge into U.S. waters of dredged or fill material.

2. An assessment of the impacts on threatened or endangered species. This portion of the EIS supplement has been included to comply with Section 7 of the Endangered Species Act (Amendment 7C).

Our review of the project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), and applicable Corps of Engineers regulations and guidance.

A scoping meeting will not be held for the preparation of this supplement. Significant issues to be discussed in this supplement were identified through coordination with Federal, State, and local government agencies; interested citizens' groups; and individual citizens.

We estimate that the Draft Supplement EIS will be available to the public by July 1979.

Questions concerning the proposed action and the Draft Supplement EIS can be directed to:

Colonel William W. Badger,
District Engineer, St. Paul District, Corps of Engineers, 1135 U.S. Post Office and Custom House, St. Paul, Minnesota 55101.

Dated: June 1, 1979.

Walter L. Heme,
Lieutenant Colonel, CE, Acting District Engineer.

[FR Doc. 79-18293 Filed 6-12-79; 8:45 am]

BILLING CODE 3710-CY-M

DEPARTMENT OF ENERGY

Clark Oil and Refining Corp.; Proposed Remedial Order

AGENCY: Department of Energy.

ACTION: Notice of Proposed Remedial Order to Clark Oil and Refining Corporation and Opportunity for Objection

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel for Compliance of the Economic Regulatory Administration (ERA), Department of Energy, hereby gives notice that a Proposed Remedial Order was issued to Clark Oil and Refining Corporation (Clark), 8530 West National Avenue, Milwaukee, Wisconsin 53201, on April 30, 1979. The Proposed Remedial Order sets forth findings of fact and conclusions of law concerning Clark's overstatement of crude oil costs in violation of the Phase IV Petroleum Price Regulations formerly at 6 CFR Part 150, subsequently recodified at 10 CFR Part 212. The violation, in the amount of \$82,500, resulted from Clark's failure to reduce its costs of crude oil purchased in the United States to reflect income received in connection with certain reciprocal crude oil purchase and exchange transactions, entered into by Clark to realize the value of its fee-free oil imports licenses. The subject transactions occurred between October 23, 1973 and December 31, 1973.

In accordance with 10 CFR 205.192(c), any person may obtain a copy of the Proposed Remedial Order, with confidential information, if any, deleted, from the ERA.

On or before June 28, 1979, any aggrieved person may file a Notice of Objection in accordance with 10 CFR 205.193. Such Notice should be filed with:

Office of Hearings and Appeals,
Department of Energy, Room 8014, 2000 M Street, NW., Washington, D.C. 20461.

Copies of the Proposed Remedial Order may be obtained by written request addressed to:

Milton Jordan, Director, Division of Freedom of Information and Privacy Act Activities, Forrestal Building, Room GB-145, 1000 Independence Avenue, SW., Washington, D.C. 20585; Attention: George W. Young, Jr.

Copies of the Proposed Remedial Order may be obtained in person from:

Office of Freedom of Information, Reading Room, Forrestal Building, Room GA-152, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Issued in Washington, D.C., June 7, 1979.

Paul L. Bloom,
Special Counsel for Compliance.

[FR Doc. 79-18426 Filed 6-12-79; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

[DOE/EIS-0048-DS-1]

Availability of Draft Facility Location Supplement

Notice is hereby given that the Bonneville Power Administration (BPA), Department of Energy (DOE) has issued a draft facility location supplement to BPA's Final Fiscal Year 1976 Proposed Program Environmental Statement. This Draft Facility Location Supplement is issued pursuant to DOE's implementation of the National Environmental Policy Act of 1969. Entitled "Okanogan Area Service" this supplement assesses the environmental impacts of proposed transmission facility additions to serve the Okanogan Valley in Washington State. This EIS is a reissue of a previous location supplement filed as a draft with CEQ on April 15, 1975, and as a final on September 16, 1975.

Copies of the Okanogan Area Service Draft Facility Location Supplement are available for public inspection at designated Federal depositories (for locations, contact the Environmental Manager, BPA, P.O. Box 3621, Portland, OR 97208) and at DOE public document rooms located at:

Library, FOI—Public Reading Room GA-152, Forrestal Building, 1000 Independence Ave. SW., Washington, D.C.

BPA, Washington, D.C., Office, Federal Building, 12th & Pennsylvania Avenue NW., Room 3352, Washington, D.C.

Library, BPA Headquarters, 1002 NE, Holladay Street, Portland, OR.

And the following BPA Area and District Offices:

Spokane Area Office, U.S. Court House,
Room 561, W. 920 Riverside Avenue,
Spokane, WA.

Wenatchee District Office, U.S. Federal Building, Room 314, 301 Yakima Street, Wenatchee, WA.

This document is being furnished to various Federal, State, and local agencies with environmental expertise, or which are otherwise likely to be interested in, or affected by, the proposal. Copies of the document are also being furnished to State and local clearinghouses and to other interested groups and individuals.

A limited number of single copies are available for distribution by contacting the Environmental Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208 or the BPA Area and District Offices mentioned above.

Dated at Washington, D.C. this 5th day of June, 1979.

George E. Bell,
Assistant Administrator.

[FR Doc. 79-18450 Filed 6-12-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 79-CERT-001]

E. I. Du Pont de Nemours & Co.; Application for Certification of the Use of Natural Gas to Displace Fuel Oil

Take notice that on May 1, 1979, E. I. du Pont de Nemours and Company (Du Pont), Wilmington, Delaware 18898, on behalf of its Chambers Works, Deepwater, New Jersey 08023; Newport Plant, James & Water Streets, Newport, Delaware 19804; and Old Hickory Plant, Old Hickory, Tennessee 37138, filed three separate applications with the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 (44 FR 20398, April 15, 1979) for certification of an eligible use of natural gas to displace fuel oil for each of the three facilities, all as more fully set forth in the applications, since all three applications pertain to the use of natural gas at Du Pont facilities, ERA, in the interest of administrative efficiency, will combine the applications into one proceeding under ERA Docket 79-CERT-001. Du Pont's three applications for certification are on file with the ERA and open to public inspection at the ERA, Docket Room 6317-B, 2000 M Street, N.W., Washington, D.C. 20461, from 8:00 a.m.-4:30 p.m., Monday through Friday, except Federal holidays.

In support of its applications, Du Pont presented the following data for the three plants:

Plant and location	Quantity of natural gas to be used (Mcf/day)	Quantity of fuel oil to be displaced (bbls/yr)	Sulfur content (percent)	Eligible seller	Interstate pipeline
Chambers Works, Deepwater, N.J.	Maximum 6,000	Maximum 347,000 of No. 6	1.5	Cehet Corp., Charleston, W. Va.	Tennessee Gas Pipeline Co., Houston, Tex. and Columbia Gas Transmission Co., Charleston, W. Va.
Newport Plant, Newport, Del.	Maximum 2,500	154,000 of No. 6	0.3	do	Same as above, plus Transcontinental Gas Pipe Line Co., Houston, Tex.
Old Hickory Plant, Old Hickory, Tenn.	Maximum 4,000	259,000 of No. 2	low	do	Tennessee Gas Pipeline Co., Houston, Tex. and Tennessee Natural Gas Lines, Inc., Nashville.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 6318, 2000 M Street NW., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, on or before June 23, 1979.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines an oral presentation is required, further notice will be given to Du Pont and any persons filing comments, and filed in the Federal Register.

Issued in Washington, D.C., on June 8, 1979.

Doris J. Dewton,
Acting Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-18428 Filed 6-12-79; 8:45 am]
BILLING CODE 6450-01-M

Hughes & Hughes Oil and Gas; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Hughes and Hughes Oil and Gas, 208 East Houston Street, Beeville, Texas 78102. This Proposed Remedial Order charges that Hughes and Hughes

violated the Mandatory Petroleum Allocation Regulations connected with the termination of a crude oil supplier/purchaser relationship.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mr. William Miller, Program Manager, Department of Energy, Economic Regulatory Administration, Room 5002G, Washington, D.C. 20461, phone 202-632-8761. On or before June 28, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR § 205.193.

Issued in Washington, D.C. on the 5th day of June 1979.

Barton Isenberg,
Assistant Administrator for Enforcement, Economic Regulatory Administration.

Concurrence: L. Feldman, Office of General Counsel.

June 7, 1979.

[FR Doc. 79-18427 Filed 6-12-79; 8:45 am]
BILLING CODE 6450-01-M

R. W. Anderson; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: May 31, 1979.
Comments by: July 13, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, TX 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, TX 75235 [phone] 214-749-7626.

SUPPLEMENTARY INFORMATION: On May 31, 1979, the Office of Enforcement of the ERA executed a Consent Order with R. W. Anderson of Delhi, Louisiana. Under 10 CFR 205.199(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and R. W. Anderson wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with R. W. Anderson effective as of the date of its execution by the DOE and R. W. Anderson.

I. The Consent Order

Hercules Petroleum Company, Inc., Choudrant, Louisiana, and Anderson Butane Service, Inc., Delhi, Louisiana, are entities engaged in the resale of petroleum products. Pursuant to 10 CFR 212.31 (8 CFR 150.31 prior to January 15, 1974), the DOE concluded these entities are a firm based on the fact that R. W. Anderson, President and a member of the Board of Directors of both entities, owns 75 percent of the outstanding stock of Hercules Petroleum Company, Inc., and 100 percent of the outstanding stock of Anderson Butane Service, Inc. As a firm engaged in the resale of petroleum products, the entities are subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic

Regulatory Administration as a result of its audit of R. W. Anderson as a reseller-retailer of petroleum products, the Office of Enforcement, ERA, and R. W. Anderson entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was August 17, 1973, through November 30, 1974, and it included sales of propane to five classes of purchaser and butane to one class of purchaser.

2. R. W. Anderson improperly applied the provisions of 10 CFR 212.93 (6 CFR 150.359 prior to January 15, 1974) when determining the prices to be charged for its petroleum products, and as a consequence certain of its customers were overcharged on some of their purchases.

3. R. W. Anderson agrees to refund to the DOE \$160,000, including interest and penalties, on May 31, 1979, the date of execution of the Consent Order. An additional \$90,235 was previously refunded on a voluntary basis resulting in a total refund of \$250,235.

4. The provisions of 10 CFR 205.199j, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, R. W. Anderson agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. 1. above, the sum of \$160,000 on the effective date of the Consent Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the Petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67.

In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199l(a).

III. Submission of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

b. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, TX. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/749-7626.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on R. W. Anderson Consent Order." We will consider all comments we receive by 4:30 p.m. local time, on July 13, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, TX on the 4th day of June, 1979.

Wayne I. Tucker,
District Manager of Enforcement, Southwest District Office, Economic Regulatory Administration.

[FR Doc. 79-18331 Filed 6-12-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Amerada Hess Corp.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

June 1, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notice of a determination pursuant to 18 CFR 274.104 of the Natural Gas Policy Act of 1978 applicable to:

Railroad Commission of Texas
FERC Control Number: JD79-6569
API Well Number: 42-165-31347
Section: 103
Operator: Amerada Hess Corporation
Well Name: Northrup & Carr B #2
Field: Hanford
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 1 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E. Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 28, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-18387 Filed 6-12-79; 8:45 am]

BILLING CODE 6450-01-M

ARCO Oil and Gas Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978.

June 5, 1979.

On May 21, 1979, the Federal Energy Regulatory Commission received notice of a determination pursuant to 18 CFR 274.104 of the Natural Gas Policy Act of 1978 applicable to:

United States Department of the Interior,
Geological Survey, Louisiana
FERC Control Number: JD79-4971
API Well Number: 17721401390S1
Section: 102
Operator: ARCO Oil and Gas Company
Well Name: OGS-G-2938 Well No. D-10
Field: South Pass Block 61 17
County: Offshore, Louisiana
Purchaser: Southern Natural Gas Company
Volume: 400 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E. Washington D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 28, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-18393 Filed 6-12-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. ER78-516, E-8187, E-8700, ER76-203 and ER76-238]

Boston Edison Co.; Certification

June 6, 1979.

Take notice that the Honorable Jon G. Lotis, on May 18, 1979, certified to the Commission a proposed settlement agreement submitted by Boston Edison Company and New England Power Company covering proceedings in Docket Nos. ER78-516, E-8187, E-8700, ER76-203 and ER76-238.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before June 25, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-18395 Filed 6-12-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-321]

Colorado Interstate Gas Co.; Application

June 5, 1979.

Take notice that on May 21, 1979, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP79-321 an application pursuant to Section 311(a)(1) of the Natural Gas Policy Act of 1978 for approval of a transportation service, on a best efforts

basis, by CIG for Cheyenne Light, Fuel and Power Company (Cheyenne Light), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

CIG states that it has entered into a gas transportation and exchange agreement dated November 21, 1978 with Montana-Dakota Utilities Company (MDU), Cheyenne Light, Fuel Resources Development Company (Fuelco) and Energetics, Inc. (Energetics). CIG further states that it is involved to the extent of providing a transportation service by receiving for and delivering gas to Cheyenne Light.

The term of the transportation service is effective on the date of the said agreement through April 1, 1983, and thereafter until terminated by any party upon one year's prior written notice and CIG anticipates the initial service under the said agreement would commence on December 1, 1979, the application indicates.

CIG contends that certain gas is to be produced by Energetics from acreage in Williams and McKenzie Counties, North Dakota and Fuelco has purchase rights to this gas which is to be processed through the Tioga Plant, operated by Aminoil USA, Inc., located in Williams County, North Dakota. CIG further asserts that Fuelco has assigned to Cheyenne Light, a local distribution company which is one of CIG's customers and an affiliate of Fuelco, its purchase rights to the residue gas on an annual basis during the months of December through March. MDU would purchase the residue gas during the months of April through November of each year.

CIG asserts that the volume of residue gas, expected to average up to 1,500 Mcf per day, (approximately 177,000 Mcf per year), is to be delivered to MDU at the tailgate of the Tioga Plant for the account of Cheyenne Light. MDU, in turn, would transport and deliver thermally equivalent volumes to CIG at existing interconnections between CIG and MDU. The subject gas, less fuel usage and lost or unaccounted-for volumes, CIG states, would be delivered to Cheyenne Light by CIG at an existing delivery point in Weld County, Colorado.

CIG states in the application that Cheyenne Light would reimburse it for redelivery volumes delivered at a rate to reflect CIG's transmission system cost of service, including a reasonable return on investment, but exclusive of the cost of service attributable to its gathering and storage system and exclusive of the cost of gas attributable to gas used in the

operation and maintenance of CIG's transmission system. The current transportation rate is 24.91 cents per Mcf at a pressure base of 14.73 psia as filed in Docket No. RP79-59.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 28, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-18382 Filed 6-12-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. RP75-86, et al., RP76-76, and RP77-105]

Colorado Interstate Gas Co.; Proposed Changes in FERC Gas Tariff

June 6, 1979.

Take notice that Colorado Interstate Gas Company (CIG) on May 30, 1979, tendered for filing certain changes to its FPC Gas Tariff, Second Revised Volume No. 1, FPC Gas Tariff, Third Revised Volume No. 2, and FERC Gas Tariff, Original Volume No. 1. These changes, which result from the Commission's Order issued March 16, 1979, approving the rate settlement in Docket Nos. RP75-86, et al., RP76-76, and RP77-105, adjust the base tariff rates on FPC Gas Tariff, Second Revised Volume No. 1, Sheet Nos. 5 and 6; adjust certain purchased gas stipulations on FPC Gas Tariff, Second Revised Volume No. 1, Sheet Nos. 64, 66, and 67 and FERC Gas Tariff, Original Volume No. 1, Sheet Nos. 58 and 59; adjust certain transportation charges on FPC Gas Tariff, Third Revised Volume No. 2, Sheet Nos. 198 and 262.

Revised Tariff Sheet Nos. 5 and 6 cover the period from October 1, 1975 to September 30, 1978, inclusive. Revised Tariff Sheet Nos. 198 and 262 cover the period from January 1, 1978 to September 30, 1978. Revised Sheet Nos. 66 and 67 are to be effective October 1, 1977; Revised Sheet Nos. 58 and 59 are to be effective January 1, 1979; and

Revised Sheet No. 64 is to be effective April 16, 1979.

Copies of the filing were served upon CIG's jurisdictional customers and certain other parties.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-18396 Filed 6-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CI79-415]

Continental Oil Co.; Granting Intervention

June 5, 1979.

On May 21, 1979, Mobil Oil Corporation (Mobil), Nine Greenway Plaza, Suite 2700, Houston, Texas 77046, filed an untimely petition to intervene in Docket No. CI79-415.

Continental Oil Company has requested, in Docket No. CI79-415, that the Commission declare that certificates of public convenience and necessity are not required for sales from old offshore federal leases where such sales were not commenced and no certificate was issued prior to December 1, 1978, the effective date of the Natural Gas Policy Act of 1978. Mobil states that it is a substantial gas producer and seller from the Outer Continental Shelf and it has, therefore, substantial interests that will be affected by the determinations made in this proceeding which cannot be represented by any other party. Mobil, therefore, alleges that it has a direct and substantial interest in this proceeding which may be adversely affected by the Commission's findings and conclusions in this matter. Mobil further avers that it has a right to intervene herein and that its intervention is in the public interest, is not intended to and will not delay this proceeding and is necessary and appropriate to the administration of the

Natural Gas Act and the Natural Gas Policy Act of 1978.

Pursuant to Section 3.5 (a)(5) of the Commissioner's Rules of Practice and Procedure (18 CFR § 3.5 (a)(5)) as promulgated in Docket No. RM 78-19 (issued August 4, 1978), Mobil Oil Corporation is permitted to intervene in Docket No. CI79-415 subject to the Commission's regulations. Participation shall be limited to matters affecting asserted rights and interests specifically set forth in Mobil's petition to intervene. The admission of the intervenor shall not be construed as recognition by the Commission that it may be aggrieved by any order entered in this proceeding.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-18383 Filed 6-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP71-15 and RP75-28]

East Tennessee Natural Gas Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

June 6, 1979.

Take notice that on May 31, 1979, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Twenty-Ninth Revised Sheet No. 4 of Sixth Revised Volume No. 1 of its FERC Gas Tariff to be effective July 1, 1979.

East Tennessee states that the sole purpose of this tariff sheet is to reflect various rate adjustments as follows:

(1) A Current Purchased Gas Cost Rate Adjustment of positive 57.55 cents per Mcf determined in accord with Section 22.2.

(2) A negative Demand Surcharge for Amortizing the Unrecovered Purchased Gas Cost Account of 4.0 cents per Mcf determined in accord with Section 22.3.

(3) A negative Current Rate Adjustment of 1.16 cents per Mcf determined pursuant to Section 24.8 reflecting the recoupment of curtailment credits given its customers and the flow-through of the curtailment credits received by East Tennessee.

East Tennessee also states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure 918 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 22,

1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-18397 Filed 6-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-224]

El Paso Natural Gas Co.; Amendment

June 5, 1979.

Take notice that on May 29, 1979, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP79-224 an amendment to its application filed in the instant docket pursuant to Section 7 of the Natural Gas Act so as to delete Applicant's request for authorization to sell in interstate commerce natural gas withdrawn from the Washington Ranch Field to Applicant's east-of-California (EOC) customers for use in protecting such EOC customers' Priority 1 and 2 requirements, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

In its application filed in the instant docket, Applicant requests permission and approval to abandon certain existing pipeline facilities, with associated appurtenances, and a certificate authorizing the operation of certain existing facilities; the construction and operation of certain new facilities in Culberson County, Texas, and Eddy County, New Mexico, necessary to implement the Washington Ranch Storage Project; and the transportation and sale in interstate commerce of natural gas withdrawn from the Washington Ranch Field to Applicant's EOC customers for use in protecting such customers' Priority 1 and 2 requirements commencing with the 1981-82 winter heating season and during subsequent winter heating seasons.¹

Applicant states that at various times it has filed for and received authorizations to sell various quantities of natural gas to its EOC customers, for resale, pursuant to certain service

¹The instant application has been consolidated with the proceedings in Docket Nos. CP79-205, et al.

agreements between Applicants and such customers, in order that such customers may serve the needs of natural gas consumers in their respective service areas. Inasmuch as such service agreements have previously been approved by the Commission and their related sales authorization have previously been granted to Applicant, Applicant presently believes that additional authorization for the sale of natural gas withdrawn from the Washington Ranch Field to its existing EOC customers is not required in order to effectuate the proposed Washington Ranch Storage Project. Consequently, Applicant proposes to delete from its application its request to sell natural gas withdrawn from the Washington Ranch Field.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 28, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-18384 Filed 6-12-79; 8:45 am]

*BILLING CODE 6450-01-M

El Paso Natural Gas Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

June 5, 1979.

On May 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

United States Department of the Interior
Geological Survey, New Mexico

FERC Control Number: JD79-5929
API Well Number: 3004521156000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Riddle G-3
Field: Blanco-South Pictured Cliffs Gas

County: San Juan, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 18.4 MMcf.

FERC Control Number: JD79-5930
API Well Number: 30039062300000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Klein 4
Field: Blanco-South Pictured Cliffs Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 17.9 MMcf.

FERC Control Number: JD79-5931
API Well Number: 30039600710000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28-7 Unit NP No. 68
Field: Blanco-Mesaverde Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 19.0 MMcf.

FERC Control Number: JD79-5932
API Well Number: 30045210300000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Jones A 8
Field: Blanco-South Pictured Cliffs Gas
County: San Juan, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 14.2 MMcf.

FERC Control Number: JD79-5933
API Well Number: 3004520910000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Hardie D 3
Field: Blanco-South Pictured Cliffs Gas
County: San Juan, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 15.3 MMcf.

FERC Control Number: JD79-5934
API Well Number: 30039600510000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit NP 15
Field: Ballard-Pictured Cliffs Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 1.0 MMcf.

FERC Control Number: JD79-5935
API Well Number: 30045067100000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Turner Hughes 10
Field: Blanco-South Pictured Cliffs Gas
County: San Juan, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 11.3 MMcf.

FERC Control Number: JD79-5936
API Well Number: 30045067610000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Turner Hughes 1
Field: Blanco-South Pictured Cliffs Gas
County: San Juan, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 7.3 MMcf.

FERC Control Number: JD79-5937
API Well Number: 30039069030000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Rincon Unit 19
Field: Blanco-South Pictured Cliffs Gas
County: Rio Arriba, New Mexico

Purchaser: El Paso Natural Gas Company
Volume: 3.0 MMcf.

FERC Control Number: JD79-5938
API Well Number: 30039206730000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28-4 Unit 37
Field: Basin-Dakota Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 9.1 MMcf.

FERC Control Number: JD79-5939
API Well Number: 30039077580000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 30-6 Unit 57
Field: Blanco-Mesaverde Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 19.0 MMcf.

FERC Control Number: JD79-5940
API Well Number: 30039207870000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit No. 225
Field: Blanco-South Pictured Cliffs Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79-5941
API Well Number: 30039067300000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Rincon Unit 7
Field: Blanco-South Pictured Cliffs Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 3.3 MMcf.

FERC Control Number: JD79-5942
API Well Number: 30039209850000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28-6 Unit 196
Field: Blanco-South Pictured Cliffs Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 10.6 MMcf.

FERC Control Number: JD79-5943
API Well Number: 30039067710000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 27-4 Unit No. 26
Field: Blanco-Mesaverde Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 11.7 MMcf.

FERC Control Number: JD79-5944
API Well Number: 30039823660000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28-6 Unit No. 108
Field: Blanco-South Pictured Cliffs Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 15.0 MMcf.

FERC Control Number: JD79-5945
API Well Number: 30039071910000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 27-5 Unit No. 61
Field: Blanco-Mesaverde Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79-5946
API Well Number: 3003908000000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 32-5 Unit No. 12
Field: Blanco-Mesaverde Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 3.0 MMcf.

FERC Control Number: JD79-5947
API Well Number: 30039067920000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 27-4 Unit No. 27
Field: Blanco-Mesaverde Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79-5948
API Well Number: 300393071090000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 27-4 Unit No. 28
Field: Blanco-Mesaverde Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 16.1 MMcf.

FERC Control Number: JD79-5949
API Well Number: 30045210350000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Roelofs 6
Field: Blanco-Pictured Cliffs Gas
County: San Juan, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 16.8 MMcf.

FERC Control Number: JD79-5950
API Well Number: 30045210890000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Roelofs 7
Field: Blanco-Pictured Cliffs Gas
County: San Juan, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 17.9 MMcf.

FERC Control Number: JD79-5951
API Well Number: 30039062180000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Kein 5
Field: Blanco-South Pictured Cliffs Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 16.4 MMcf.

FERC Control Number: JD79-5952
API Well Number: 30039073420000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28-5 Unit No. 46
Field: Blanco-Mesaverde Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79-5953
API Well Number: 30045063580000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit No. 77
Field: Blanco-Mesaverde Gas
County: San Juan, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 11.0 MMcf.

FERC Control Number: JD79-5954
API Well Number: 30045061140000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit No. 22
Field: Kutz-West Pictured Cliffs Gas
County: San Juan, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 2.0 MMcf.

FERC Control Number: JD79-5955
API Well Number: 30045060740000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano, Unit No. 19
Field: Kutz, West Pictured Cliffs Gas
County: San Juan, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-5956
API Well Number: 30039600980000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 30-6 Unit No. 3
Field: Blanco-Mesaverde Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79-5957
API Well Number: 30039073300000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28-5 Unit No. 1
Field: Blanco-Mesaverde Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 8.0 MMcf.

FERC Control Number: JD79-5958
API Well Number: 30039062430000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28-5 Unit No. 11
Field: Blanco-Mesaverde Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 17.2 MMcf.

FERC Control Number: JD79-5959
API Well Number: 30039078060000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 30-6 Unit No. 27
Field: Blanco-Mesaverde Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 11.3 MMcf.

FERC Control Number: JD79-5960
API Well Number: 30039068620000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 27-4 Unit No. 25
Field: Blanco-Mesaverde Gas
County: Rio Arriba, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79-5961
API Well Number: 30045088120000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Quigley A No. 1
Field: Blanco-Pictured Cliffs Gas
County: San Juan, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 11.0 MMcf.

FERC Control Number: JD79-5962
API Well Number: 30045057850000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit NP No. 51
Field: Ballard-Pictured Cliffs Gas
County: San Juan, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 1.0 MMcf.

FERC Control Number: JD79-5963
API Well Number: 30045062210000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Frost No. 9
Field: Basin-Dakota Gas
County: San Juan, New Mexico
Purchaser: El Paso Natural Gas Company
Volume: 11.0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations, may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 28, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-18394 Filed 6-12-79; 8:45 am]
Billing Code 6450-01-M

Harvey E. Yates Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

June 5, 1979.

On May 22, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of New Mexico, Energy and Minerals Department, Oil Conservation Division

FERC Control Number: JD79-4972
API Well Number: 30-025-25551
Section of NGPA: 102 and 103
Operator: Harvey E. Yates Company
Well Name: Mobil 27 State
Field: Undesignated Queen
County: Lea, New Mexico
Purchaser: Northern Natural Gas Company
Volume: 73 MMcf.

FERC Control Number: JD79-4973
API Well Number: 30-025-25593
Section of NGPA: 102
Operator: Harvey E. Yates Company
Well Name: Hanlad State #1

Field: None-Wildcat Well
County: Lea, New Mexico
Purchaser: Northern Natural Gas Company
Volume: 100 MMcf.

FERC Control Number: JD79-4974
API Well Number: 30-025-25417
Section of NGPA: 102 and 103
Operator: Harvey E. Yates Company
Well Name: State 22 #1
Field: Undesignated
County: Lea, New Mexico
Purchaser: Northern Natural Gas Company
Volume: 73 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 28, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-18390 Filed 6-12-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. RP71-16 and RP74-29]

**Midwestern Gas Transmission Co.;
Filing Pursuant to Tariff Rate
Adjustment Provisions**

June 6, 1979.

Take notice that on May 31, 1979, Midwestern Gas Transmission Company (Midwestern) tendered for filing Twenty-Fifth Revised Sheet No. 5 and Eighth Revised Sheet No. 5A to its FERC Gas Tariff, Third Revised Volume No. 1, to be effective July 1, 1979. Midwestern states that the sole purpose of the revised tariff sheets is to reflect adjustments to its rates pursuant to rate adjustment provisions in Articles XVII, XVIII and XIX of the General Terms and Conditions of its tariff.

Midwestern states that as to the Southern System, Twenty-Fifth Revised Sheet No. 5 reflects (1) a Current Purchased Gas Cost Rate Adjustment pursuant to Section 2 of Article XVII which is based on rate changes reflected in the filing made by Tennessee Gas

Tenneco Inc. on May 31, 1979 in Docket Nos. RP73-114, RP74-24 and RP74-73 and (2) a revised Surcharge for Amortizing the Unrecovered Purchased Gas Cost Account for the Southern System, consisting of a negative \$0.05 per Mcf for Midwestern's demand rates and a negative 0.97 cents per Mcf for the commodity rates, pursuant to Section 3 of Article XVII. According to Midwestern, the revised tariff sheet also reflects a Rate Adjustment of a negative 3.81 cents per Mcf to reflect curtailment credits applicable to the Southern System pursuant to Section 9 of Article XIX.

Midwestern states that as to the Northern System, Eighth Revised Sheet No. 5A reflects (1) a Current Purchased Gas Cost Rate Adjustment pursuant to Section 2 of Article XVIII which is based on an increase, effective May 1, 1979, to \$2.30 (U.S.) per MMBTU in the price which Midwestern is required by action of the Canadian Government to pay for gas to its Northern System supplier, TransCanada Pipelines, Limited and (2) a revised Surcharge for Amortizing the Unrecovered Purchased Gas Cost Account for the Northern System of a positive 0.50 cents per Mcf as specified in Section 3 of Article XVIII.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-18396 Filed 6-12-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP78-532]

**Ozark Gas Transmission System;
Request for Environmental Comments
About a Proposed Natural Gas
Transmission System**

June 6, 1979.

This notice requests that environmental agencies and the public comment on anticipated environmental problems associated with the proposed project. These comments will be used by the staff of the Federal Energy Regulatory Commission (FERC) to prepare an environmental assessment and will aid in making the final determination of the project's environmental status.

The environmental assessment will address the application by Ozark Gas Transmission System (Ozark) in Docket No. CP78-532 for a certificate of public convenience and necessity. This certificate is requested pursuant to Section 7(c) of the Natural Gas Act and would authorize the construction and operation of pipeline facilities to be known as the "Ozark System." Natural gas would be obtained from natural gas reserves in the Arkoma Basin in Oklahoma and Arkansas which are presently developed, as well as reserves which will be developed in the immediate future, transported, or exchanged through the Ozark's System to an existing pipeline system and sold to the applicant's customers or their affiliates.

The Ozark System would consist of 285 miles of 20-inch diameter pipeline extending in a generally easterly direction from Pittsburg County, Oklahoma, to the proposed point of interconnection with an existing transmission system in White County, Arkansas. In addition to the main pipeline system, there would be approximately 170 miles of 4- to 10-inch diameter laterals, gas measuring stations, skid-mounted dehydration units, and compressor stations located as required along the pipeline system. The proposal would traverse Pittsburg, Latimer, Haskell, Sequoyah and Leflore Counties in Oklahoma and Crawford, Sebastian, Franklin, Logan, Johnson, Pope, Conway, Faulkner and White Counties in Arkansas.

To allow sufficient space for construction of the 20-inch diameter pipeline, a right-of-way width of 65 feet would be required. After construction, a 30-foot wide right-of-way would be maintained. A 50-foot wide right-of-way

for construction and a 25-foot wide permanent right-of-way would be required for the laterals. Approximately 225 miles of the total 455 miles of proposed pipeline would parallel existing rights-of-way.

Typical natural gas pipeline construction procedures would be followed. Construction is proposed to begin September 1, 1979, and be completed by the end of November 1979.

Alternatives which have been considered include utilizing existing pipelines and realigning the proposed Ozark System along existing rights-of-way.

Federal, state, and local agencies, private interest groups, and the public are encouraged to contribute comments within 30 days of the date of this notice by contacting Mr. Alan L. Barnett, Federal Energy Regulatory Commission, Office of Pipeline and Producer Regulation, Room 3309A, 825 North Capitol Street, Washington, D.C. 20426; telephone (202) 275-3963. Additional information about the proposal is available from Mr. Barnett.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-18422 Filed 6-12-79; 8:45 am]
BILLING CODE 6450-01-M

Primos Production Co., et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

June 5, 1979.

On May 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Louisiana, Department of Natural Resources, Office of Conservation

FERC Control Number: JD79-5964

API Well Number: 17067004230000

Section of NGPA: 108

Operator: Primos Production Company

Well Name: Tensas Delta No. 30

Field: Monroe Gas Field

County: Morehouse, Louisiana

Purchaser: United Gas Pipeline Co.

Volume: 3.22 MMcf.

FERC Control Number: JD79-5965

API Well Number: 17067003780000

Section of NGPA: 108

Operator: Primos Production Company

Well Name: Tensas Delta No. 36

Field: Monroe Gas Field

County: Morehouse, Louisiana

Purchaser: United Gas Pipeline Co.

Volume: 3.78 MMcf.

FERC Control Number: JD79-5966

API Well Number: 17067003770000

Section of NGPA: 108

Operator: Primos Production Company

Well Name: Tensas Delta No. 47

Field: Monroe Gas Field

County: Morehouse, Louisiana

Purchaser: United Gas Pipeline Co.

Volume: 10.30 MMcf.

FERC Control Number: JD79-5967

API Well Number: 1701521077

Section of NGPA: 103

Operator: The Louisiana Land and Exploration Co.

Well Name: Bolinger No. 5 L%¢¢#*

Field: Plain Dealing

County: Bossier, Louisiana

Purchaser: Arkansas Louisiana Gas Company

Volume: 72 MMcf.

FERC Control Number: JD79-5968

API Well Number: 1701521171

Section of NGPA: 103

Operator: The Louisiana Land and Exploration Co.

Well Name: Bolinger No. 9 180615

Field: Plain Dealing

County: Bossier, Louisiana

Purchaser: Arkansas Louisiana Gas Company

Volume: 46 MMcf.

FERC Control Number: JD79-5969

API Well Number: 1701722686

Section of NGPA: 103

Operator: The Louisiana Land and Exploration Co.

Well Name: T. F. Bryson No. 2

Field: Longwood

County: Caddo, Louisiana

Purchaser: Southwestern Electric Power Co.

Volume: 102 MMcf.

FERC Control Number: JD79-5971

API Well Number: 1711100433

Section of NGPA: 108

Operator: IMC Exploration Company

Well Name: Union Producing No. 6

Field: Monroe Gas Field

County: Union, Louisiana

Purchaser: Mid Louisiana Gas Company

Volume: 7.7 MMcf.

FERC Control Number: JD79-5970

API Well Number: 1711100391

Section of NGPA: 108

Operator: IMC Exploration Company

Well Name: Union Producing No. 5

Field: Monroe Gas Field

County: Union, Louisiana

Purchaser: Mid Louisiana Gas Company

Volume: 1.8 MMcf.

FERC Control Number: JD79-5972

API Well Number: 1711100584

Section of NGPA: 108

Operator: IMC Exploration Company

Well Name: Union Producing No. 7

Field: Monroe Gas Field

County: Union, Louisiana

Purchaser: Mid Louisiana Gas Company

Volume: 5.8 MMcf.

FERC Control Number: JD79-5973

API Well Number: 1711100583

Section of NGPA: 108

Operator: IMC Exploration Company

Well Name: Union Producing No. 8

Field: Monroe Gas Field

County: Union, Louisiana

Purchaser: Mid Louisiana Gas Company

Volume: 2.2 MMcf.

FERC Control Number: JD79-5974

API Well Number: 1711100428

Section of NGPA: 108

Operator: IMC Exploration Company

Well Name: Union Producing No. 9

Field: Monroe Gas Field

County: Union, Louisiana

Purchaser: Mid Louisiana Gas Company

Volume: 13.9 MMcf.

FERC Control Number: JD79-5975

API Well Number: 1711100432

Section of NGPA: 108

Operator: IMC Exploration Company

Well Name: Union Producing No. 10

Field: Monroe Gas Field

County: Union, Louisiana

Purchaser: Mid Louisiana Gas Company

Volume: 2.9 MMcf.

FERC Control Number: JD79-5976

API Well Number:

Section of NGPA: 108

Operator: Primos Production Company

Well Name: Tensas Delta No. 10

Field: Monroe Gas Field

County: Morehouse, Louisiana

Purchaser: United Gas Pipeline Co.

Volume: 1.74 MMcf.

FERC Control Number: JD79-5977

API Well Number: 17067004240000

Section of NGPA: 108

Operator: Primos Production Company

Well Name: Tensas Delta No. 24

Field: Monroe Gas Field

County: Morehouse, Louisiana

Purchaser: United Gas Pipeline Co.

Volume: 6.09 MMcf.

FERC Control Number: JD79-5978

API Well Number: 17067004220000

Section of NGPA: 108

Operator: Primos Production Company

Well Name: Tensas Delta No. 28

Field: Monroe Gas Field

County: Morehouse, Louisiana

Purchaser: United Gas Pipeline Co.

Volume: 4.36 MMcf.

FERC Control Number: JD79-5979

API Well Number:

Section of NGPA: 108

Operator: Primos Production Company

Well Name: Tensas Delta No. 29

Field: Monroe Gas Field

County: Morehouse, Louisiana

Purchaser: United Gas Pipeline Co.

Volume: 5.24 MMcf.

FERC Control Number: JD79-5980

API Well Number:

Section of NGPA: 108

Operator: A. J. Hodges Industries, Inc.

Well Name: Vu A. Skannal No. A-1

Field: Sligo

County: Bossier Parish, Louisiana

Purchaser: United Gas Pipeline Co.

Volume: 4 MMcf.

FERC Control Number: JD79-5981

API Well Number: 1702720197

Section of NGPA: 108

Operator: Hassie Hunt Exploration Company

Well Name: Sx Sun Shirey No. 1 (Serial No.

139153)

Field: Lisbon

County: Claiborne Parish, Louisiana

Purchaser: Texas Eastern Transmission Corp.

Volume: 2* MMcf.

FERC Control Number: JD79-5982
 API Well Number: 1701320290
 Section of NGPA: 108
 Operator: Bodcaw Company
 Well Name: Hoss Ra Su 11; Bodcaw D No. 1
 Field: Castor
 County: Bienville, Louisiana
 Purchaser: United Gas Pipeline Co.
 Volume: 4.120 MMcf.

FERC Control Number: JD79-5983
 API Well Number: 1701320264
 Section of NGPA: 108
 Operator: Bodcaw Company
 Well Name: Hoss C Su 60; Bodcaw Fee LBN No. 5
 Field: Danville
 County: Bienville, Louisiana
 Purchaser: La Gas Intrastate Inc., of Shreveport
 Volume: 7.630 MMcf.

FERC Control Number: JD79-5984
 API Well Number: 17-017-025910000
 Section of NGPA: 108
 Operator: Jack W. Grigsby
 Well Name: Crane Su 2; Johns No. 1-A-D-Serial No. 58070
 Field: Bethany Longstreet
 County: Caddo, Louisiana
 Purchaser: Texas Eastern Transmission Corp.
 Volume: 11 MMcf.

FERC Control Number: JD79-5985
 API Well Number: 1710922116
 Section of NGPA: 103
 Operator: Union Oil Company of California
 Well Name: Houma Community Well No. 1
 Field: Houma
 County: Terrebonne Parish, Louisiana
 Purchaser: United Gas Pipeline Co.
 Volume: 700 MMcf.

FERC Control Number: JD79-5986
 API Well Number: 17-109-21828
 Section of NGPA: 107
 Operator: Tenneco Oil Company
 Well Name: Vub: Terrebonne Land & Dev. Corp. A No. 2
 Field: Four Isle Dome
 County: Terrebonne Parish, Louisiana
 Purchaser:
 Volume: 730 MMcf.

FERC Control Number: JD79-5987
 API Well Number: 1702620464
 Section of NGPA: 103
 Operator: Bryant Oil and Gas Corp.
 Well Name: Wilson Bufkin No. 1
 Field: Lisbon
 County: Claiborne, Louisiana
 Purchaser: Louisiana Gas Intrastate, Inc. of Shreveport
 Volume: 102 MMcf.

FERC Control Number: JD79-5988
 API Well Number: 17-045-20513
 Section of NGPA: 103
 Operator: Chevron U.S.A. Inc.
 Well Name: E. H. Peterman No. E-3
 Field: East Bayou Postillion
 County: Iberia, Louisiana
 Purchaser: Southern Natural Gas Co.
 Volume: 3650 MMcf.

FERC Control Number: JD79-5989
 API Well Number: 17-015-20882
 Section of NGPA: 103
 Operator: Sun Oil Company (Delaware)
 Well Name: Gray Ra Suc: Olinkraft "A" No. 1
 Field: Ivan
 County: Bossier, Louisiana
 Purchaser: Arkansas Louisiana Gas Co.
 Volume: 110 MMcf.

FERC Control Number: JD79-5990
 API Well Number: 17-119-20183
 Section of NGPA: 103
 Operator: Sun Oil Company (Delaware)
 Well Name: Cv Ra Suk: John Adkins No. 1
 Field: Ivan
 County: Webster, Louisiana
 Purchaser: Arkansas Louisiana Gas Co.
 Volume: 37 MMcf.

FERC Control Number: JD79-5991
 API Well Number: 17-015-21067
 Section of NGPA: 103
 Operator: Sun Oil Company (Delaware)
 Well Name: Cv Ra Sub: R. D. Johnston No. 1
 Field: Ivan
 County: Bossier, Louisiana
 Purchaser: Arkansas Louisiana Gas Co.
 Volume: 11 MMcf.

FERC Control Number: JD79-5992
 API Well Number: 17-015-20862
 Section of NGPA: 103
 Operator: Sun Oil Company (Delaware)
 Well Name: Cv Ra Sui: J. A. Adair No. 1
 Field: Ivan
 County: Bossier, Louisiana
 Purchaser: Arkansas Louisiana Gas Company
 Volume: 329 MMcf.

FERC Control Number: JD79-5993
 API Well Number:
 Section of NGPA: 108
 Operator: Primos Production Company
 Well Name: Tensas Delta No. 27
 Field: Monroe Gas Field
 County: Morehouse, Louisiana
 Purchaser: United Gas Pipeline Co.
 Volume: 4.10 MMcf.

FERC Control Number: JD79-5994
 API Well Number: 1706700429
 Section of NGPA: 108
 Operator: Primos Production Co.
 Well Name: Tensas Delta No. 28
 Field: Monroe Gas Field
 County: Morehouse, Louisiana
 Purchaser: United Gas Pipeline Co.
 Volume: 4.97 MMcf.

FERC Control Number: JD79-5995
 API Well Number: 1706700587
 Section of NGPA: 108
 Operator: Primos Production Co.
 Well Name: Tensas Delta No. 25
 Field: Monroe Gas Field
 County: Morehouse, Louisiana
 Purchaser: United Gas Pipeline Co.
 Volume: 8.85 MMcf.

FERC Control Number: JD79-5996
 API Well Number: 1706700344
 Section of NGPA: 108
 Operator: Primos Production Co.
 Well Name: Tensas Delta No. 23
 Field: Monroe Gas Field
 County: Morehouse, Louisiana
 Purchaser: United Gas Pipeline Co.
 Volume: 5.47 MMcf.

FERC Control Number: JD79-5997
 API Well Number: 1706700440
 Section of NGPA: 108
 Operator: Primos Production Co.
 Well Name: Tensas Delta No. 21
 Field: Monroe Gas Field
 County: Morehouse, Louisiana

Purchaser: United Gas Pipeline Co.
 Volume: .075 MMcf.

FERC Control Number: JD79-5998
 API Well Number:
 Section of NGPA: 103
 Operator: Primos Production Co.
 Well Name: Tensas Delta No. 19
 Field: Monroe Gas Field
 County: Morehouse, Louisiana
 Purchaser: United Gas Pipeline Co.
 Volume: 7.33 MMcf.

FERC Control Number: JD79-5999
 API Well Number: 1706720011
 Section of NGPA: 103
 Operator: Primos Production Co.
 Well Name: Tensas Delta No. 51
 Field: Monroe Gas Field
 County: Morehouse, Louisiana
 Purchaser: United Gas Pipeline Co.
 Volume: 9.95 MMcf.

FERC Control Number: JD79-6000
 API Well Number: 1706700376
 Section of NGPA: 108
 Operator: Primos Production Co.
 Well Name: Tensas Delta No. 46
 Field: Monroe Gas Field
 County: Morehouse, Louisiana
 Purchaser: United Gas Pipeline Co.
 Volume: 11.54 MMcf.

FERC Control Number: JD79-6001
 API Well Number: 1706700375
 Section of NGPA: 103
 Operator: Primos Production Co.
 Well Name: Tensas Delta No. 45
 Field: Monroe Gas Field
 County: Morehouse, Louisiana
 Purchaser: United Gas Pipeline Co.
 Volume: 2.47 MMcf.

FERC Control Number: JD79-6002
 API Well Number: 17-10921858
 Section of NGPA: 102
 Operator: North American Royalties, Inc.
 Well Name: 11,600 Ra Su A: CL&F
 Field: Palmetto Bayou
 County: Terrebonne Ph., Louisiana
 Purchaser: Energy Development Corp.
 Volume: 680 MMcf.

FERC Control Number: JD79-6003
 API Well Number: 1706700585
 Section of NGPA: 108
 Operator: Primos Production Co.
 Well Name: Tensas Delta No. 1-A
 Field: Monroe Gas Field
 County: Morehouse, Louisiana
 Purchaser: United Gas Pipeline Co.
 Volume: 2.75 MMcf.

FERC Control Number: JD79-6004
 API Well Number:
 Section of NGPA: 108
 Operator: Primos Production Co.
 Well Name: Tensas Delta No. 1
 Field: Monroe Gas Field
 County: Morehouse, Louisiana
 Purchaser: United Gas Pipeline Co.
 Volume: 3.24 MMcf.

FERC Control Number: JD79-6005
 API Well Number:
 Section of NGPA: 108
 Operator: Primos Production Co.
 Well Name: Tensas Delta No. 8
 Field: Monroe Gas Field
 County: Morehouse, Louisiana
 Purchaser: United Gas Pipeline Co.
 Volume: 5.83 MMcf.

FERC Control Number: JD79-6006
API Well Number: 1706700402
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Tensas Delta No. 44
Field: Monroe Gas Field
County: Morehouse, Louisiana
Purchaser: United Gas Pipeline Co.
Volume: 5.20 MMcf.

FERC Control Number: JD79-6007
API Well Number: 1706700335
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Tensas Delta No. 12
Field: Monroe Gas Field
County: Morehouse, Louisiana
Purchaser: United Gas Pipeline Co.
Volume: 8.80 MMcf.

FERC Control Number: JD79-6008
API Well Number:
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Tensas Delta No. 19
Field: Monroe Gas Field
County: Morehouse, Louisiana
Purchaser: United Gas Pipeline Co.
Volume: 10.42 MMcf.

FERC Control Number: JD79-6009
API Well Number: 1706700380
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Tensas Delta No. 39
Field: Monroe Gas Field
County: Morehouse, Louisiana
Purchaser: United Gas Pipeline Co.
Volume: 9.48.

FERC Control Number: JD79-6010
API Well Number: 1706700381
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Tensas Delta No. 40
Field: Monroe Gas Field
County: Morehouse, Louisiana
Purchaser: United Gas Pipeline Co.
Volume: 3.34 MMcf.

FERC Control Number: JD79-6011
API Well Number: 1706700332
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Tensas Delta No. 42
Field: Monroe Gas Field
County: Morehouse, Louisiana
Purchaser: United Gas Pipeline Co.
Volume: 10.29 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.208, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 28, 1979. Please reference the FERC Control Number in any

correspondence concerning a determination.

Kenneth F. Plumb,
Secretary

[FR Doc. 79-18388 Filed 6-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-20]

South Texas Natural Gas Gathering Co.; Gas Tariff Filing

June 5, 1979.

Take notice that on May 11, 1979, South Texas Natural Gas Gathering Company (South Texas), Five Greenway Plaza East, Houston, Texas 77046, filed in Docket No. GP79-20 pursuant to Section 154.26 of the Commission Regulations under the Natural Gas Act (18 CFR 154.26) proposed Rate Schedule T-1 to its FERC Gas Tariff, original Volume No. 1, providing for the transportation of gas purchased by others pursuant to Section 311(b) of the Natural Gas Policy Act of 1978 (NGPA), all as more fully set forth in the gas tariff which is on file with the Commission and open for public inspection.

South Texas states that its tariff is proposed to be effective on June 15, 1979, and that the rate charged under Rate Schedule T-1 is the same as the settlement rate proposed for transportation service in Docket No. RP78-58.¹

South Texas states that it has no customers for service under Rate Schedule T-1 and so includes no estimate of revenues required by Section 154.62(b)(2) of the regulations.

South Texas explains that because of its proximity to certain intrastate pipelines, it has been approached with inquiries concerning the transportation of gas purchased from intrastate pipelines by interstate pipelines and local distribution companies. South Texas goes on to say that it is presently providing transportation services for one intrastate pipeline pursuant to Sections 157.45, *et seq.*, of the Regulations (18 CFR 157.45) which explicitly permit an intrastate pipeline to transport emergency gas on behalf of another interstate pipeline without prior approval. South Texas states that it is its position that the NGPA authorizes transportation rendered pursuant to Rate Schedule T-1, without requiring a certificate of public convenience and necessity.

South Texas asserts that Section 311(b) of the NGPA provides for the sales by intrastate pipelines to interstate pipelines and local distribution companies. However, South Texas

maintains that Section 311(a) of the NGPA authorizes transportation by interstate pipelines "on behalf of" intrastate pipelines and local distribution companies and that the Regulations promulgated in Part 204 track the NGPA language without clarifying whether interstate pipelines can contract with other interstate pipelines for transportation of Section 311(b) gas.

South Texas contends that it has specific authority to transport gas purchased by local distribution companies pursuant to Section 311, yet no explicit authorization to move gas for an interstate pipeline making a similar purchase.

South Texas asserts that the Commission's policy favoring self-executing regulations governing Section 311 transactions would be frustrated unless the Commission affirms the right of interstate pipelines to transport all Section 311 gas without a certificate.

A more restrictive reading of Section 311(a) would mean that the only interstate pipelines that can arrange expeditious delivery of gas purchased from the intrastate market are those directly connected to the selling intrastate pipeline, it is said. Alternatively, pipelines would have to structure their Section 311(a) transactions to insure that the intrastate pipeline is doing the contracting, it is further said.

South Texas contends that it is clearly allowed to contract with an intrastate pipeline selling gas pursuant to Section 311(b) and it should likewise be permitted to have contractual arrangements with the purchasing interstate pipeline, since the terms of the contract, refund obligations, and the gas itself, would be identical.

Further, South Texas states that there is support for its position independent of the NGPA, since Section 7(c) of the Natural Gas Act (15 USC 717(c)) provides that "temporary acts or operations" are exempt from certificate requirements and the limited term and interruptible nature of the service to be provided characterize these transactions as temporary acts.

Any person desiring to be heard or to make any protest with reference to said gas tariff filing should on or before June 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be

¹ Authorization pending before the Commission.

taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-18385 Filed 6-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP78-414]

Southern Natural Gas Co.; Petition to Amend

June 5, 1979.

Take notice that on May 18, 1979, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP78-414 a petition to amend the Commission's order issued October 2, 1978 in said docket pursuant to Section 7(c) of the Natural Gas Act as implemented by § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) by authorization of an increase in expenditures for gas purchase facilities by 43 percent and by expanding the definition of gas-purchase facilities, all as more fully set forth in the petition which is on file with the Commission and open for public inspection.

Southern asserts the requested 43 percent increase represents inflation in gas utility construction costs since January 1975, and the percentage figure is derived from the *Handy-Whitman Index of Public Utility Construction Costs*. Applying this factor, the total expenditure for facilities authorized in this docket would be increased to a total cost limitation not to exceed \$17,160,000 and with no single onshore and offshore project to exceed \$2,145,000 and \$3,575,000, respectively, it is said.¹

Southern states that it is pursuing an active program of gas acquisition and anticipates the need to construct additional gas purchase facilities in the next few months. Southern maintains that increased single and total project cost limitations may allow Southern to connect new sources of supply that might be lost to Southern if producers had to wait for individual certificate authorization and a later construction period before the movement of gas could commence.

Southern further asserts that the delay

in attaching gas supplies which is inherent in the certification process may nullify the beneficial effect of the provisions of Part 284 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) whenever an interstate pipeline must construct and operate facilities to connect an intrastate pipeline to a producer's facilities or to receive gas sold or transported under Part 284. A similar difficulty exists when facilities must be constructed to connect Southern's system with that of another natural gas company authorized to transport gas for Southern, it is said.

Southern therefore contends that to eliminate this delay the Commission should expand the definition of budget-type gas purchase facilities authorized in Docket No. CP78-414 to include:

(1) facilities necessary to connect the facilities of an interstate or intrastate pipeline with Southern's interstate system or with the facilities of another natural gas company or intrastate pipeline authorized to transport gas for or exchange gas with Southern, for the purpose of receiving gas which is (a) transported by an intrastate pipeline for Southern's account pursuant to Section 311(a)(2) of the NGPA, (b) sold by an intrastate pipeline to Southern pursuant to Section 311(b) of the NGPA, (c) assigned to Southern by an intrastate pipeline pursuant to Section 312 of the NGPA or (d) transported by another natural gas company for the account of, or for exchange with Southern and

(2) facilities necessary to connect the facilities of an independent producer or other similar seller with the system of an intrastate pipeline authorized by Part 284 of the Commission's Regulations under the NGPA to transport gas for the account of Southern.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 28, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party

to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-18379 Filed 6-12-79; 8:45 am]

BILLING CODE 6450-01-M

Tenneco Oil Co. and Pioneer Production Corp.; Determination by a Jurisdictional Agency under the Natural Gas Policy Act of 1978

June 5, 1979.

On May 22, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

United States Department of the Interior
Geological Survey Oklahoma

FERC Control Number: JD79-4969.

API Well Number: 35-093-35989.

Section of NGPA: 108.

Operator: Tenneco Oil Company.

Well Name: USA—T. Connell No. 1.

Field: Ringwood.

County: Major, Oklahoma.

Purchaser: Oklahoma Natural Gas Gathering Corp.

Volume: 5 MMcf.

FERC Control Number: JD79-4970.

API Well Number: 35-121-02176.

Section of NGPA: 108.

Operator: Pioneer Production Corporation.

Well Name: U.S. Naval Depot No. 1 OTC 121 482680.

Field: South Pine Hollow.

County: Pittsburg, Oklahoma.

Purchaser: Arkansas Louisiana Gas Company.

Volume: 16.75 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 28, 1979. Please reference the FERC Control Number in any

¹The order issued October 2, 1978, authorized a total cost limitation not to exceed \$12,000,000 and single onshore and offshore costs not to exceed \$1,500,000 and \$2,500,000, respectively.

correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-18392 Filed 6-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2906]

Terra Bella Irrigation District; Application for Preliminary Permit

June 5, 1979.

Take notice that on January 18, 1979, Terra Bella Irrigation District filed an application for preliminary permit, [pursuant to the Federal Power Act, 16 U.S.C. Section 791(a)-825(r)], for a proposed waterpower project, to be known as the Jackass-Chiquito Water Conservation and Hydroelectric Development Project, FERC No. 2906, located on the Jackass and Chiquito Creeks, near Southern California Edison Company's Mammoth Pool Reservoir (existing licensed FERC Project No. 2085), in the county of Madera, California. Lands of the United States which may be affected by the proposed project are located in the Sierra National Forest, under the jurisdiction of the United States Forest Service. Correspondence with the Applicant should be directed to: John Boudreau, Manager, Terra Bella Irrigation District, 24790 Avenue 95, Terra Bella, California 93270 and Paul R. Minasian, Esquire, Minasian, Minasian, Minasian, Spruance and Baber, Attorneys at Law, Post Office Box 1679, Oroville, California 95965.

Purpose of the Project—A portion of project energy would be used for distribution to the Applicant's major pumping stations for irrigational purposes. Remaining power would be sold to other public agencies or utility companies.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a period of three years, during which it would prepare a definitive project report, prepare preliminary designs, conduct geological explorations, collect environmental data and prepare an environmental report, obtain agreements with various Federal, State, and local agencies, and prepare a FERC license application. The cost of these activities is estimated by the Applicant to be about \$1,000,000.

Project Description—The principal project works would consist of: (1) a concrete overflow dam diverting flow from East Fork Granite Creek through a 9,300-foot-long, 11-foot-diameter tunnel

to West Fork Granite Reservoir; (2) a concrete overflow dam diverting flow from Middle Fork Granite Creek through a 12-inch pipeline connecting to a bore hole in the 11-foot-diameter tunnel; (3) West Fork Granite Reservoir (6-acre surface area) to be created by a third concrete overflow diversion dam; (4) a 14-foot-diameter tunnel approximately 10,300 feet long, carrying water from West Fork Granite Reservoir to; (5) the Jackass Reservoir which would have a capacity of 100,000 acre-feet, a maximum surface area of about 1,430 acres, and formed by a homogeneous rolled earthfill structure designated Jackass Dam; (6) a horseshoe tunnel 9 feet 6 inches in diameter and approximately 10,900 feet long, leading to an above-ground penstock approximately 6,700 feet long, varying in diameter from 6 feet 6 inches to 8 feet 0 inches, connected to an underground 6-foot-diameter steel-lined penstock serving; (7) the underground Jackass Powerhouse containing two impulse type turbine-generator units, having a total installed capacity of 80 megawatts; (8) a tailrace tunnel about 4,100 feet long leading to; (9) Chiquito Reservoir having a surface area of 1,030 acres and storage capacity of 80,000 acre-feet, formed by a zone-type composite earth and rockfill structure designated Chiquito Dam; (10) a horseshoe tunnel 13 feet in diameter and about 22,590 feet long, connected to an approximately 4,195-foot-long, above-ground penstock varying in diameter from 7 feet 6 inches to 8 feet 6 inches leading to; (11) Chiquito Powerhouse containing two impulse-type turbine-generator units, having a total installed capacity of 120 megawatts, and located at the headwaters of Mammoth Pool near the junction of Jackass Creek.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license. In this instance, the applicant seeks a 36-month permit.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. A copy of the application may be obtained directly from the Applicant.

Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal requests for comments will be made.

If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. Section 1.8 or Section 1.10 (1978).

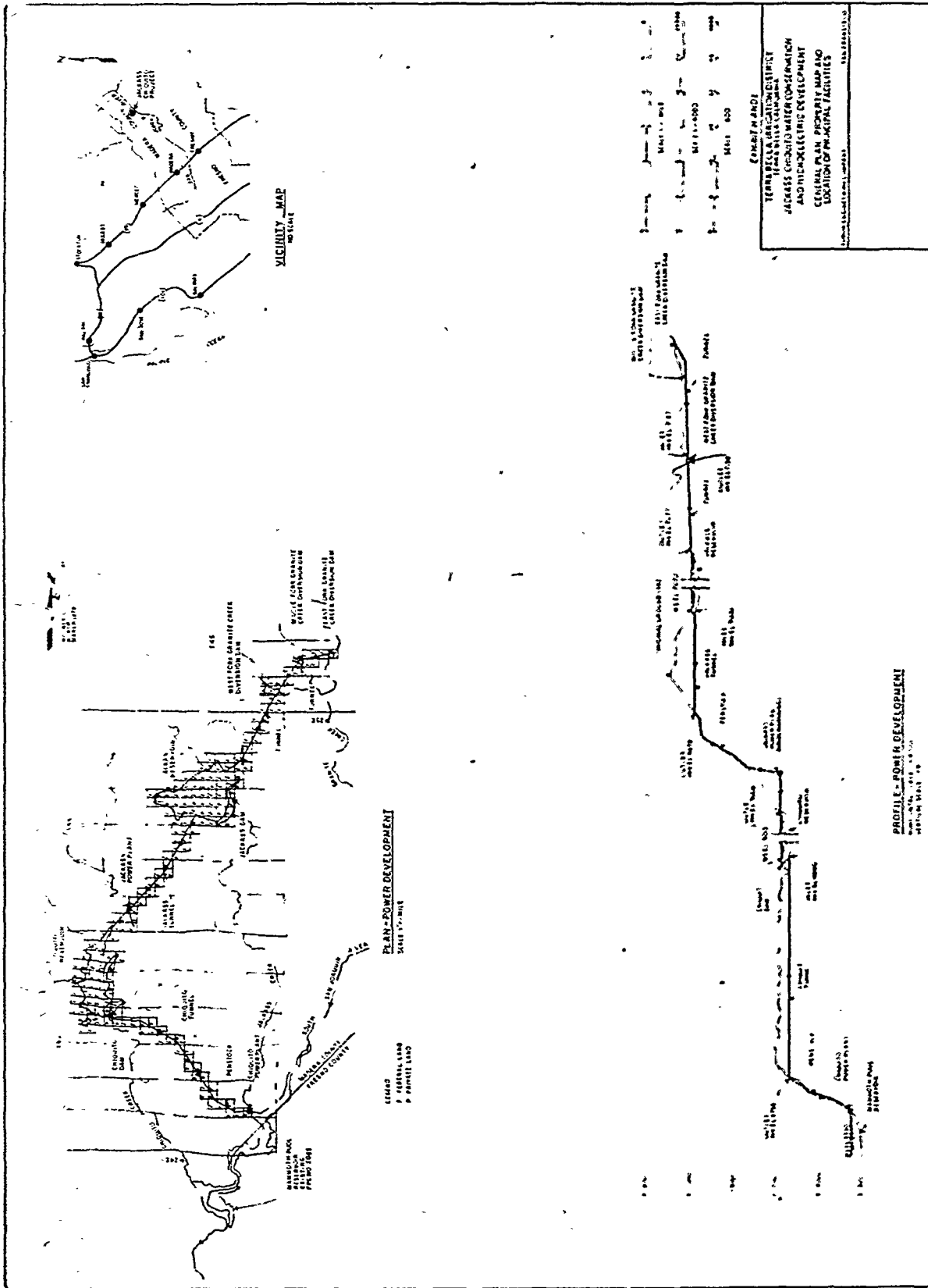
In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before August 6, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

BILLING CODE 6450-01-M



[Docket No. CP77-313]

**Texas Eastern Transmission Corp.;
Proposed Changes in FERC Gas Tariff**

June 6, 1979.

Take notice that Texas Eastern Transmission Corporation on May 25, 1979, tendered for filing proposed changes in its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheet:

**Revised Alternate Second Substitute
Forty-eighth Revised Sheet No. 14**

This tariff sheet is being issued to reflect changes in Texas Eastern's rates under Rate Schedule ISS, pursuant to ordering Paragraph (A) of the Commission's order issued January 27, 1978 at Docket Nos. CP77-313, *et al.* This increase in ISS rates reflects the flow-through of increased costs to Texas Eastern as a result of Consolidated Gas Supply Corporation's (Consolidated) increase in rates under Consolidated's Rate Schedule GSS to become effective July 1, 1979 in Docket No. RP79-22.

The proposed effective date of the above tariff sheet is July 1, 1979.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 20, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-18400 Filed 6-12-79; 8:45 am]
BILLING CODE 6450-01-M

**The Superior Oil Co., et al.;
Determination by a Jurisdictional
Agency Under the Natural Gas Policy
Act of 1978**

June 5, 1979.

On May 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18

CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Louisiana, Department of Natural Resources, Office of Conservation

FERC Control Number: JD79-6230

API Well Number: 1710922046

Section of NGPA: 103

Operator: The Superior Oil Company

Well Name: VUA: LL&E 13 No. 5

Field: Four Isle Dome

County: Terrebonne Parish, Louisiana

Purchaser: Tennessee Gas Pipe Line Company

Volume: 641 MMcf.

FERC Control Number: JD79-6231

API Well Number: 17-717-20140

Section of NGPA: 103

Operator: Hunt Industries

Well Name: SL 3788 #7 156631

Field: Grand Isle Blk 24 (Miocene P Sand)

County: Offshore (Zone 1), Louisiana

Purchaser: Michigan Wisconsin Pipeline Company

Volume: 1,000* MMcf.

FERC Control Number: JD79-6232

API Well Number: 1706720098

Section of NGPA: 108

Operator: IMC Exploration Company

Well Name: Tensas Delta #F-36

Field: Monroe Gas Filed

County: Morehouse, Louisiana

Purchaser: Mid Louisiana Gas Company

Volume: 4.0 MMcf.

FERC Control Number: JD79-6233

API Well Number: 1706720037

Section of NGPA: 108

Operator: IMC Exploration Company

Well Name: Tensas Delta Fee #F-37

Field: Monroe Gas

Field

County: Morehouse, La.

Purchaser: Mid Louisiana Gas Company

Volume: 8.8 MMcf.

FERC Control Number: JD79-6234

API Well Number: 1706720099

Section of NGPA: 108

Operator: IMC Exploration Company

Well Name: Tensas Delta #F-38

Field: Monroe Gas

Field

County: Morehouse, La.

Purchaser: Mid Louisiana Gas Company

Volume: 13.1 MMcf.

FERC Control Number: JD79-6235

API Well Number: 1711101208

Section of NGPA: 108

Operator: IMC Exploration Company

Well Name: Love #4

Field: Monroe Gas

Field

County: Union, La.

Purchaser: Mid Louisiana Gas Company

Volume: 9.5 MMcf.

FERC Control Number: JD79-6236

API Well Number: 1711101271

Section of NGPA: 108

Operator: IMC Exploration Company

Well Name: Love #5

Field: Monroe Gas

Field

County: Union, La.

Purchaser: Mid Louisiana Gas Company

Volume: 8.4 MMcf.

FERC Control Number: JD79-6237

API Well Number: 1711101248

Section of NGPA: 108

Operator: IMC Exploration Company

Well Name: Love #6

Field: Monroe Gas

Field

County: Union, La.

Purchaser: Mid Louisiana Gas Company

Volume: 8.0 MMcf.

FERC Control Number: JD79-6238

API Well Number: 1711101249

Section of NGPA: 108

Operator: IMC Exploration Company

Well Name: Love #8

Field: Monroe Gas

Field

County: Union, La.

Purchaser: Mid Louisiana Gas Company

Volume: 5.5 MMcf.

FERC Control Number: JD79-6239

API Well Number: 1711101251

Section of NGPA: 108

Operator: IMC Exploration Company

Well Name: Love #9

Field: Monroe Gas

Field

County: Union, La.

Purchaser: Mid Louisiana Gas Company

Volume: 5.1 MMcf.

FERC Control Number: JD79-6240

API Well Number: 1711101250

Section of NGPA: 108

Operator: IMC Exploration Company

Well Name: Love #10

Field: Monroe Gas

Field

County: Union, La.

Purchaser: Mid Louisiana Gas Company

Volume: 8.4 MMcf.

FERC Control Number: JD79-6241

API Well Number: 1711101272

Section of NGPA: 108

Operator: IMC Exploration Company

Well Name: Love #11

Field: Monroe Gas Field

County: Union, Louisiana

Purchaser: Mid Louisiana Gas Company

Volume: 5.1 MMcf.

FERC Control Number: JD79-6242

API Well Number: 17077-20178

Section of NGPA: 107

Operator: Chevron U.S.A. Inc.

Well Name: Walter C. Parlange, Jr., et al., #2

Field: Judge Digby

County: Point Coupee, La.

Purchaser: Sugar Bowl Gas Corp.

Volume: 3723 MMcf.

FERC Control Number: JD79-6243

API Well Number: 1711320858

Section of NGPA: 103

Operator: Exxon Corporation

Well Name: Exxon Fee-Pecan Island No. 69

Field: Pecan Island

County: Vermilion Parish, La.

Purchaser: Columbia Gas Trans. Corp.

Volume: 3000 MMcf.

FERC Control Number: JD79-6244

API Well Number: 1701722579

Section of NGPA: 103

Operator: McGoldrick Oil Company

Well Name: Lane No. 8

Field: Caddo Pine Island
County: Caddo, La.
Purchaser: United Gas Pipeline Company
Volume: 7.5 MMcf.

FERC Control Number: JD79-6245
API Well Number: 1701722627
Section of NGPA: 103
Operator: McGoldrick Oil Company
Well Name: Ducote "B" No. 12

Field: Caddo Pine Island
County: Caddo, La.
Purchaser: United Gas Pipeline Company
Volume: 4 MMcf.

FERC Control Number: JD79-6246
API Well Number: 1701722604
Section of NGPA: 103
Operator: McGoldrick Oil Company
Well Name: Ducote "B" No. 11

Field: Caddo Pine Island
County: Caddo, La.
Purchaser: United Gas Pipeline Company
Volume: 7.5 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 28, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-18389 Filed 6-12-79; 8:45 am]
BILLING CODE 6450-01-M

Tiger Oil, Inc., et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

June 5, 1979.

On May 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the National Gas Policy Act of 1978.

State of Ohio, Department of Natural Resources, Division of Oil and Gas

FERC Control Number: JD79-6102
API Well Number: 34 121 2 1952 ** 14
Section of NGPA: 103
Operator: Tiger Oil, Inc.
Well Name: Mildred Cuiler #2
Field: N/A
County: Noble, Ohio
Purchaser: East Ohio Gas Co.
Volume: 15 MMcf.

FERC Control Number: JD79-6103
API Well Number: 3401921055**14
Section of NGPA: 103
Operator: MB Operating Co., Inc.
Well Name: W. B. Flanagan #1
Field: N/A
County: Carroll, Ohio
Purchaser:
Volume: 5.475 MMcf.

FERC Control Number: JD79-6104
API Well Number: 3415723243**14
Section of NGPA: 103
Operator: MB Operating Co., Inc.
Well Name: A. & S. Fish Unit #2
Field: N/A
County: Tuscarawas, Ohio
Purchaser:
Volume: 5.475 MMcf.

FERC Control Number: JD79-6105
API Well Number: 3415723210**14
Section of NGPA: 103
Operator: MB Operating Co., Inc.
Well Name: A. Fish #1
Field: N/A
County: Tuscarawas, Ohio
Purchaser:
Volume: 5.475 MMcf.

FERC Control Number: JD79-6106
API Well Number: 3415723205**14
Section of NGPA: 103
Operator: MB Operating Co., Inc.
Well Name: J. & M. Downing #3
Field: N/A
County: Tuscarawas, Ohio
Purchaser:
Volume: 5.475 MMcf.

FERC Control Number: JD79-6107
API Well Number: 3415722877**14
Section of NGPA: 103
Operator: MB Operating Co., Inc.
Well Name: J. Cutshall Unit #2
Field: N/A
County: Tuscarawas, Ohio
Purchaser:
Volume: 5.475 MMcf.

FERC Control Number: JD79-6108
API Well Number: 3415723004**14
Section of NGPA: 103
Operator: MB Operating Co., Inc.
Well Name: J. Downing #2
Field: N/A
County: Tuscarawas, Ohio
Purchaser:
Volume: 5.475 MMcf.

FERC Control Number: JD79-6109
API Well Number: 3415722976**14
Section of NGPA: 103
Operator: MB Operating Co., Inc.
Well Name: J. Cutshall Unit #1
Field: N/A
County: Tuscarawas, Ohio
Purchaser:
Volume: 5.475 MMcf.

FERC Control Number: JD79-6110
API Well Number: 3401921187**14
Section of NGPA: 103
Operator: MB Operating Co., Inc.
Well Name: B. M. Corbitt #1
Field: N/A
County: Carroll, Ohio
Purchaser:
Volume: 5.475 MMcf.

FERC Control Number: JD79-6111
API Well Number: 3401921070**14
Section of NGPA: 103
Operator: MB Operating Co., Inc.
Well Name: C. & L. Clark Unit #2
Field: N/A
County: Carroll, Ohio
Purchaser:
Volume: 5.475 MMcf.

FERC Control Number: JD79-6112
API Well Number: 3401921047**14
Section of NGPA: 103
Operator: MB Operating Co., Inc.
Well Name: C. & L. Clark Unit #1
Field: N/A
County: Carroll, Ohio
Purchaser:
Volume: 5.475 MMcf.

FERC Control Number: JD79-6113
API Well Number: 3401921185**14
Section of NGPA: 103
Operator: MB Operating Co., Inc.
Well Name: G. Bowling #1
Field: N/A
County: Carroll, Ohio
Purchaser:
Volume: 5.475 MMcf.

FERC Control Number: JD79-6114
API Well Number: 3409921079**14
Section of NGPA: 103
Operator: SPS Technologies, Inc.
Well Name: Victoria Indus. Prop. #2
Field: N/A
County: Mahoning, Ohio
Purchaser: The East Ohio Gas Company
Volume: 27 MMcf.

FERC Control Number: JD79-6115
API Well Number: 3416724495**14
Section of NGPA: 103
Operator: Trap Springs Oil and Gas Company
Well Name: Gerald Lang #1
Field:
County: Washington, Ohio
Purchaser: American Energy Services, Inc.
Volume: 365 MMcf.

FERC Control Number: JD79-6116
API Well Number: 3415722886**14
Section of NGPA: 103
Operator: The Mutual Oil & Gas Company
Well Name: Parry-Everhard Unit #1
Field: N/A
County: Tuscarawas, Ohio
Purchaser: American Energy Services, Inc.
Volume: 31 MMcf.

FERC Control Number: JD79-6117
API Well Number: 3415723053**14
Section of NGPA: 103
Operator: The Mutual Oil & Gas Company
Well Name: Barnett-Parish Unit #1
Field: N/A
County: Tuscarawas, Ohio
Purchaser: American Energy Services, Inc.
Volume: 38 MMcf.

FERC Control Number: JD79-6118
API Well Number: 3413321595**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: Gollan/Adam #1
Field: N/A
County: Portage, Ohio
Purchaser:
Volume: 30 MMcf.

FERC Control Number: JD79-6119
API Well Number: 3413321850**14

Section Of NGPA: 103
Operator: Viking Resources Corporation
Well Name: Chester O. & Deborah Timmons #3
Field: N/A
County: Portage, Ohio
Purchaser:
Volume: 30 MMcf.

FERC Control Number: JD79-6120
API Well Number: 3415520803**14
Section Of NGPA: 103
Operator: Morain Coating and Construction Inc.
Well Name: Mills #2
Field: N/A
County: Trumbull, Ohio
Purchaser: East Ohio Gas Company
Volume: 25 MMcf.

FERC Control Number: JD79-6121
API Well Number: 3415122755**14
Section Of NGPA: 103
Operator: Amtex Oil and Gas, Inc.
Well Name: Glessner Well No. 1
Field: N/A
County: Stark, Ohio
Purchaser: Columbia Gas Transmission Corp.
Volume: 25 MMcf.

FERC Control Number: JD79-6122
API Well Number: 3415520631**14
Section Of NGPA: 103
Operator: Ohio Gas and Oil
Well Name: Tauro0DeJute #1
Field: N/A
County: Trumbull, Ohio
Purchaser: East Ohio Gas Co.
Volume: 20 MMcf.

FERC Control Number: JD79-6123
API Well Number: 3415520732**14
Section Of NGPA: 103
Operator: Ohio Oil and Gas
Well Name: Gollan #1
Field: N/A
County: Trumbull, Ohio
Purchaser: Aluminum Billets, Inc.
Volume: 25 MMcf.

FERC Control Number: JD79-6124
API Well Number: 3411920501**14
Section Of NGPA: 103
Operator: Charles O. Lighthizer
Well Name: A. R. Crawford #1
Field: Andrea Crawford Farm
County: Muskingum, Ohio
Purchaser: Columbia Gas Corp.
Volume: 10,000,000 MMcf.

FERC Control Number: JD79-6125
API Well Number: 3415121149**14
Section Of NGPA: 108
Operator: K-Vill Oil & Gas
Well Name: Briner #1
Field: N/A
County: Stark, Ohio
Purchaser: East Ohio Gas Company
Volume: 4 MMcf.

FERC Control Number: JD79-6126
API Well Number: 3413320284**14
Section Of NGPA: 108
Operator: K-Vill Oil & Gas
Well Name: Gentry #1
Field: N/A
County: Portage, Ohio
Purchaser: East Ohio Gas Company
Volume: 2 MMcf.

FERC Control Number: JD79-6127
API Well Number: 3411921661**14
Section Of NGPA: 108
Operator: Royal Oil & Gas Corporation
Well Name: Paul Wahl #1
Field:
County: Muskingum, Ohio
Purchaser: Newzane Gas Company
Volume: 2.649 MMcf.

FERC Control Number: JD79-6128
API Well Number: 3411921676**14
Section Of NGPA: 108
Operator: Royal Oil & Gas Corporation
Well Name: James Tanner #1
Field:
County: Muskingum, Ohio
Purchaser: Newzane Gas Company
Volume: 1.141 MMcf.

FERC Control Number: JD79-6129
API Well Number: 3416920841**14
Section Of NGPA: 108
Operator: David Shafer Oil Producers Inc.
Well Name: Weary #1
Field: N/A
County: Wayne, Ohio
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.72 MMcf.

FERC Control Number: JD79-6130
API Well Number: 3407521016**14
Section Of NGPA: 108
Operator: Triple R Oil & Gas Co.
Well Name: Fair-Tidball #1
Field: N/A
County: Holmes, Ohio
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79-6131
API Well Number: 3405921685**14
Section Of NGPA: 108
Operator: Viking Resources Corporation
Well Name: John N. Eibel Unit #1
Field:
County: Guernsey, Ohio
Purchaser: The East Ohio Gas Company
Volume:

FERC Control Number: JD79-6132
API Well Number: 3412121636**14
Section Of NGPA: 108
Operator: Viking Resources Corporation
Well Name: A. Spurrier Unit #1
Field: N/A
County: Nobel, Ohio
Purchaser: The East Ohio Gas Company
Volume:

FERC Control Number: JD79-6133
API Well Number: 3415721608**14
Section Of NGPA: 108
Operator: Zenith Exploration Company
Well Name: Milligan Unit #1
Field: N/A
County: Tuscarawas, Ohio
Purchaser: East Ohio Gas Company
Volume: 3 MMcf.

FERC Control Number: JD79-6134
API Well Number: 3415721282**14
Section Of NGPA: 108
Operator: Zenith Exploration Company
Well Name: D. & E. Beaber #1
Field: N/A
County: Tuscarawas, Ohio
Purchaser: Stone Creek Brick Co.
Volume: 7 MMcf.

FERC Control Number: JD79-6135
API Well Number: 3408322320**14

Section Of NGPA: 108
Operator: Lew Bates, Jr.
Well Name: Roahrig #1
Field: N/A
County: Knox, Ohio
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.5 MMcf.

FERC Control Number: JD79-6136
API Well Number: 3411924005**14
Section Of NGPA: 108
Operator: Bates Oil & Gas, Inc.
Well Name: Thompson #1
Field: N/A
County: Muskingum, Ohio
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.6 MMcf.

FERC Control Number: JD79-6137
API Well Number: 3403122378**14
Section Of NGPA: 108
Operator: Lew Bates, Jr.
Well Name: Butler #1
Field: N/A
County: Coshocton, Ohio
Purchaser: Columbia Gas Transmission
Volume: 8 MMcf.

FERC Control Number: JD79-6138
API Well Number: 3403122593**14
Section Of NGPA: 108
Operator: Lew Bates, Jr.
Well Name: Dickerson #1
Field: N/A
County: Coshocton, Ohio
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.8 MMcf.

FERC Control Number: JD79-6139
API Well Number: 3403122933**14
Section Of NGPA: 108
Operator: Bates Oil & Gas, Inc.
Well Name: Sibert #1
Field: N/A
County: Coshocton, Ohio
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.7 MMcf.

FERC Control Number: JD79-6140
API Well Number: 3411922182**14
Section Of NGPA: 108
Operator: Mineral Leasing, Inc.
Well Name: Hansel #1
Field: N/A
County: Muskingum, Ohio
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.5 MMcf.

FERC Control Number: JD79-6141
API Well Number: 3411521352**14
Section Of NGPA: 108
Operator: Ohio Production Corp.
Well Name: Campbell-Dingey Unit #1
Field: N/A
County: Morgan, Ohio
Purchaser: Columbia Gas Transmission Corporation
Volume: 6 MMcf.

FERC Control Number: JD79-6142
API Well Number: 3407521823**14
Section Of NGPA: 108
Operator: Ponderosa Oil Company
Well Name: No-Ra Inc. Well #2
Field: N/A
County: Holmes, Ohio
Purchaser: Columbia Gas Trans. Corp.
Volume: 2.5 MMcf.

FERC Control Number: JD79-6143
API Well Number: 3407520984**14

Section Of NGPA: 108
 Operator: Paul R. Baker Oil & Gas Co.
 Well Name: Charles Brink #1
 Field: N/A
 County: Holmes, Ohio
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 3 MMcf.
 FERC Control Number: JD79-6144
 API Well Number: 3416921861**14
 Section Of NGPA: 108
 Operator: Ponderosa Oil Company
 Well Name: Hersh-Miller Unit Well #1
 Field: N/A
 County: Wayne, Ohio
 Purchaser: Columbia Gas Trans. Corp.
 Volume: 4 MMcf.
 FERC Control Number: JD79-6145
 API Well Number: 34-031 2 2757**14
 Section of NGPA: 108
 Operator: Ralph H. Bauman
 Well Name: Bauman Groff No. 2
 Field: N/A
 County: Coshocton, Ohio
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 7.784 MMcf.
 FERC Control Number: JD79-6146
 API Well Number: 34 031 22817**14
 Section of NGPA: 108
 Operator: Ralph H. Bauman
 Well Name: Bauman Gress No. 1
 Field: N/A
 County: Coshocton, Ohio
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 8.800 MMcf.
 FERC Control Number: JD79-6147
 API Well Number: 34-031-2-2973**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Lawrence R. Laughlin No. 4
 Field: Warsaw
 County: Coshocton, Ohio
 Purchaser: CGT
 Volume: 9.4 MMcf.
 FERC Control Number: JD79-6148
 API Well Number: 34-031-2-2438**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Leroy F. Stuller No. 2
 Field: Tunnel Hill
 County: Coshocton, Ohio
 Purchaser: Columbia Gas Transmission
 Volume: 2.6 MMcf.
 FERC Control Number: JD79-6149
 API Well Number: 3412723954**14
 Section of NGPA: 108
 Operator: Oxford Oil Co.
 Well Name: R. E. & Norma Beard No. 15A
 Field: N/A
 County: Perry, Ohio
 Purchaser: National Gas & Oil Corp.
 Volume: 3.0 MMcf.
 FERC Control Number: JD79-6150
 API Well Number: 3411923963**14
 Section of NGPA: 108
 Operator: Oxford Oil Co.
 Well Name: Earl Swingle No. 1
 Field: N/A
 County: Muskingum, Ohio
 Purchaser: Columbia Gas Trans. Corp.
 Volume: 7.0 MMcf.
 FERC Control Number: JD79-6151
 API Well Number: 3407521951**14
 Section of NGPA: 108

Operator: Oxford Oil Co.
 Well Name: Zora Smith No. 1
 Field: N/A
 County: Holmes, Ohio
 Purchaser: Columbia Gas Trans. Corp.
 Volume: 8.0 MMcf.
 FERC Control Number: JD79-6152
 API Well Number: 34-151-2-2944**14
 Section of NGPA: 103
 Operator: Belden & Blake and Co. L. P. No. 70
 Well Name: V & O Pittis Comm No. 1-872
 Field: N/A
 County: Stark, Ohio
 Purchaser:
 Volume: 10 MMcf.
 FERC Control Number: JD79-6153
 API Well Number: 3413320855**14
 Section of NGPA: 108
 Operator: Nucorp Energy Company
 Well Name: Kryvicky No. 1
 Field: N/A
 County: Portage, Ohio
 Purchaser: East Ohio Gas Company
 Volume: 6.929 MMcf.
 FERC Control Number: JD79-6154
 API Well Number: 3413320584**14
 Section of NGPA: 108
 Operator: Nucorp Energy Company
 Well Name: Carlton No. 2
 Field: N/A
 County: Portage, Ohio
 Purchaser: East Ohio Gas Company
 Volume: 7.687 MMcf.
 FERC Control Number: JD79-6155
 API Well Number: 34-133-2-0084**14
 Section of NGPA: 108
 Operator: K-Vill Oil & Gas
 Well Name: McPeak Comm. No. 1
 Field: N/A
 County: Portage, Ohio
 Purchaser: East Ohio Gas Company
 Volume: 3.3 MMcf.
 FERC Control Number: JD79-6156
 API Well Number: 3401921242**14
 Section of NGPA: 103
 Operator: MB Operating Co., Inc.
 Well Name: R. Magee No. 1
 Field: N/A
 County: Carroll, Ohio
 Purchaser:
 Volume: 5.475 MMcf.
 FERC Control Number: JD79-6157
 API Well Number: 3401921186**14
 Section of NGPA: 103
 Operator: MB Operating Co., Inc.
 Well Name: Jones Unit No. 1
 Field: N/A
 County: Carroll, Ohio
 Purchaser:
 Volume: 5.475 MMcf.
 FERC Control Number: JD79-6158
 API Well Number: 3415723216**14
 Section of NGPA: 103
 Operator: MB Operating Co., Inc.
 Well Name: R. & J. Hull No. 1
 Field: N/A
 County: Tuscarawas, Ohio
 Purchaser:
 Volume: 5.475 MMcf.
 FERC Control Number: JD79-6159
 API Well Number: 3401921107**14
 Section of NGPA: 103
 Operator: MB Operating Co., Inc.

Well Name: S. Horvath No. 1
 Field: N/A
 County: Carroll, Ohio
 Purchaser:
 Volume: 5.475 MMcf.
 FERC Control Number: JD79-6160
 API Well Number: 3401921178**14
 Section of NGPA: 103
 Operator: MB Operating Co., Inc.
 Well Name: G. Hill No. 1 (M. B. & S. E. Belden Jr.)
 Field: N/A
 County: Carroll, Ohio
 Purchaser:
 Volume: 5.475 MMcf.
 FERC Control Number: JD79-6161
 API Well Number: 3415722944**14
 Section of NGPA: 103
 Operator: MB Operating Co., Inc.
 Well Name: Harrison Leasing Co. No. 1
 Field: N/A
 County: Tuscarawas, Ohio
 Purchaser:
 Volume: 5.475 MMcf.
 FERC Control Number: JD79-6162
 API Well Number: 3415723219**14
 Section of NGPA: 103
 Operator: MB Operating Co., Inc.
 Well Name: R. Grubbs Unit No. 3
 Field: N/A
 County: Tuscarawas, Ohio
 Purchaser:
 Volume: 5.475 MMcf.
 FERC Control Number: JD79-6163
 API Well Number: 3415723003**14
 Section of NGPA: 103
 Operator: MB Operating Co., Inc.
 Well Name: R. Grubbs No. 2
 Field: N/A
 County: Tuscarawas, Ohio
 Purchaser:
 Volume: 5.475 MMcf.
 FERC Control Number: JD79-6164
 API Well Number: 3401921238**14
 Section of NGPA: 103
 Operator: MB Operating Co., Inc.
 Well Name: O. German No. 3
 Field: N/A
 County: Carroll, Ohio
 Purchaser:
 Volume: 5.475 MMcf.
 FERC Control Number: JD79-6165
 API Well Number: 3415723055**14
 Section of NGPA: 103
 Operator: MB Operating Co., Inc.
 Well Name: R. Fulton Unit No. 3
 Field: N/A
 County: Tuscarawas, Ohio
 Purchaser:
 Volume: 5.475 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 28, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[Fr Doc. 79-18391 Filed 6-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP72-133, PGA79-2]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

May 25, 1979.

Take notice that on May 21, 1979, United Gas Pipe Line Company (United) tendered for filing Forty-ninth Revised Sheet No. 4 and Alternate Forty-Ninth Revised Sheet No. 4, to its FERC Gas Tariff, First Revised Volume No. 1. These tariff sheets and supporting information are being filed pursuant to the Purchased Gas Adjustment Provisions set out in Section 19 of United's tariff.

United states that the Current Adjustment under each set of tariff sheets reflect rates payable to United's suppliers as of July 1, 1979, in accordance with applicable price regulations under the Natural Gas Policy Act of 1978 (NGPA). Sea Robin Pipeline Company (Sea Robin) one of United's suppliers, has filed alternate tariff sheets to be effective July 1, 1979 under its PGA. The Current Adjustment on Forty-ninth Revised Sheet No. 4 reflects Sea Robin's rates under Sea Robin's Twenty-first Revised Sheet No. 4. The current adjustment on Alternate Forty-ninth Revised Sheet No. 4 reflects Sea Robin's rates under Sea Robin's Alternate Twenty-first Revised Sheet No. 4. The only other difference between Forty-ninth Revised Sheet No. 4 and Alternate Forty-ninth Revised Sheet No. 4 is in the computation of the Surcharge Adjustment.

United further states that during the transition from historical methods of regulation under the Natural Gas Act to regulation under the NGPA, which occurred during the surcharge accumulation period for this filing, there have been extended periods of incidents

with respect to the rates which may be charged by producers and retroactive charges in those rates under Part 273 of the Commission's regulations, producers which are eligible to collect rates authorized under Sections 102, 103, 107 and 108 of the NGPA may collect such rates from the date of filing for a determination of eligibility with the appropriate jurisdictional agency. Such collections may either be made on a current basis through interim collection procedures or retroactively after the determination of eligibility becomes final. In addition, if the filing for a determination of eligibility was made prior to April 1, 1979, the producer may, after final determination, collect the higher rate retroactive to December 1, 1978. The estimated impact of requests for determinations filed by its suppliers under Sections 102, 103, and 107 of the NGPA on United's costs for gas delivered during the months December 1978 through June 1979 is approximately \$81,055,000. \$42,620,000 of this amount is attributable to deliveries during December 1978 through March 1979 and the jurisdictional portion of this \$42 million is reflected in the Surcharge Adjustment under Forty-ninth Revised Sheet No. 4 in accordance with the normal operation of United's PGA. The remaining \$38,438,000 is attributable to gas delivered or to be delivered during the months April-June, 1979. Under the normal operation of United's PGA, recovery of the jurisdictional portion of this \$38 million would be deferred until United's PGA becomes effective January 1, 1980. Until collected, this deferred amount would accrue interest at 9% per annum. In order to reduce the ultimate economic burden of these large producer increases on its customers, and to reduce the adverse cash flow impact of such increases on United, United has computed the Surcharge Adjustment for the Alternate Forty-ninth Revised Sheet No. 4 to reflect the estimated impact of increased rates, under Sections 102, 103, and 107 of the NGPA for gas purchased from December 1, 1978 through June 30, 1979. In all other respects Alternate Forty-ninth Revised Sheet No. 4 was computed in accordance with the provisions of Section 19 of United's Tariff. United respectfully requests waiver of the requirements of Section 19 of its Tariff and of Section 154.38 of the Commission's regulations to permit

Alternate Forty-ninth Revised Sheet No. 4 to become effective July 1, 1979.

Copies of the revised tariff sheets and supporting data are being mailed to United's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-18423 Filed 6-12-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed for the Week of March 9 through March 16, 1979

Notice is hereby given that during the week of March 9 through March 16, 1979, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in this case may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

June 5, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

(Week of Mar. 9 through Mar. 16, 1979)

Date	Name and location of applicant	Case No.	Type of submission
3/9/79	Clifton E. Curtis, Washington, D.C.	DFA-0345	Appeal of an Information Request Denial. If granted: The DOE's February 2, 1979, Information Request Denial would be rescinded and Clifton E. Curtis would receive access to certain unspecified DOE documents pursuant to 5 U.S.C. Section 552 and 10 CFR Section 700.10.
3/9/79	Gas del Oro, Inc., Washington, D.C.	DED-0398	Motion for Discovery. If granted: Discovery would be granted to Gas del Oro, Inc. in relation to the Statement of Objections filed by the firm to the Proposed Decision and Order issued to Ozone Gas Processing Company.
3/9/79	J&W Refining Company, Washington, D.C.	DMR-0044	Application for Modification. If granted: The DOE's Decision and Order of February 2, 1979 (Case No. FXE-4453) would be modified.
3/9/79	John O. Farmer, Inc., Russell, Kansas	DEE-2327	Exception to the reporting requirements. If granted: John O. Farmer, Inc. would not be required to file Form EIA-23.
3/9/79	Suburban Manufacturing Company, Dayton, Tennessee	DEE-2322	Exception. If granted: Suburban Manufacturing Company would be granted an exception from the requirement to test vented gas space heaters.
3/12/79	Little America Refining Company, Washington, D.C.	DES-2110	Request for Stay. If granted: Little America Refining Company would be granted a stay of its entitlements purchase obligations pending a final determination on its Application for Exception.
3/12/79	Stechschulte Gas & Oil Company, Washington, D.C.	DMR-0043	Application for Modification. If granted: The DOE's Decision and Order issued on March 7, 1979 (Case No. DST-0015) would be modified.
3/12/79	Texaco, Inc., Denver, Colorado	DEE-2362	Price Exception (Section 212.73). If granted: Texaco, Inc. would be permitted to sell the crude oil produced from Dugout Creek Shannon Sand Unit, located in Johnson County, Wyoming, at upper tier ceiling prices.
3/12/79	Texaco, Inc., Denver, Colorado	DEE-2359 through DEE-2361	Price Exception. If granted: Texaco, Inc. would be permitted to sell the crude oil produced from the C. S. McGee, Gwen Kapp, and Owens B Leases located in Dawson County, Montana, at upper tier ceiling prices.
3/13/79	Diamond Drilling Udy Core Drilling, Leadore, Idaho	DEE-2403	Allocation Exception. If granted: Diamond Drilling Udy Core Drilling would be granted an allocation of gas and diesel fuel for its drilling operation.
3/13/79	Gardere, Porter & DeHay, Dallas, Texas	DFA-0344	Appeal of Information Request Denial. If granted: The DOE's February 8, 1979, Information Request Denial would be rescinded and Gardere, Porter & DeHay would receive access to certain DOE data.
3/13/79	Gas Service, Inc., Bluefield, West Virginia	DEE-2401	Price Exception. If granted: Gas Service, Inc. would be granted an increase in the price it charges for propane.
3/13/79	Louisville Tin and Stove Company, Louisville, Kentucky	DEE-2399	Exception. If granted: Louisville Tin and Stove Company would be granted an exemption from the requirement to test vented gas space heaters.
3/13/79	New York Petroleum Corporation, New Orleans, Louisiana	DRT-0028	Request for Temporary Stay. If granted: New York Petroleum Corporation would be granted a temporary stay of a Remedial Order issued on July 29, 1977, and upheld on administrative appeal by a Decision and Order issued on January 19, 1979, directing that the firm refund overcharges allegedly made in sales of crude oil.
3/13/79	Public Citizen, Washington, D.C.	DFA-0346	Appeal of Information Request Denial. If granted: the DOE January 31, 1979, Information Request Denial would be rescinded and Public Citizen would receive access to certain DOE information.
3/13/79	Readybuild Products Company, Baltimore, Maryland	DEE-2400	Exception. If granted: Readybuild Products Company would be granted an exemption from the requirement to test vented gas space heaters.
3/14/79	Charter Oil Company, Jacksonville, Florida	DEX-0147	Supplemental Order. If granted: Charter Oil Company would receive a stay of its entitlement purchase obligations under the provisions of 10 CFR 211.67.
3/14/79	Charter Oil Company, Jacksonville, Florida	DES-0180	Request for Stay. If granted: Charter Oil Company would be granted a stay of its Entitlements Purchase Obligations pending a final determination on its Application for Exception.
3/14/79	Zenith Oil Company, Minneapolis, Minnesota	DEE-2556	Price Exception. If granted: Zenith Oil Company would be relieved of its obligation to refund certain overcharges as required by a Proposed Remedial Order.
3/15/79	Austral Oil Company, Houston, Texas	DEE-2540	Exception to the reporting requirements. If granted: Austral Oil Company would not be required to file Form EIA-23.
3/15/79	Gulf Corporation, Houston, Texas	DEE-2538	Exception to the provisions of 10 CFR 212.85. If granted: Gulf Oil Corporation would be granted an exception to the provisions of 10 CFR 212.85.
3/15/79	Monsanto Company, St. Mary's Parish, Louisiana	DXE-2537	Extension of relief granted in <i>Monsanto Co.</i> , 1 DOE Par. (April 28, 1978). If granted: Monsanto Company would be permitted to sell the crude oil produced from the Lucia G, SU C No. 2 located in St. Mary's Parish, Louisiana, at upper tier ceiling prices.
3/16/79	Northland Oil & Refining Company, Tulsa, Oklahoma	DXE-2539	Exception to the Entitlements Program. If granted: Northland Oil & Refining Company would be granted an exception to the provisions of 10 CFR 211.67, regarding its Entitlements Purchase Obligations for the period January through June 1979.
3/16/79	Shell Company (Puerto Rico), Washington, D.C.	DEE-2541	Price Exception. If granted: Shell Company (Puerto Rico) would be able to purchase gasoline from Commonwealth Oil Refining Company, Inc. at a reasonable price.
3/16/79	Standard Oil Company, (Indiana), Chicago, Illinois	DXE-2536	Extension of relief granted in <i>Standard Oil Co. (Indiana)</i> , 1 DOE Par. (December 12, 1978) If granted: Standard Oil Company (Indiana) would be permitted to sell the crude oil produced from the Sleepy Hollow Lansing Unit located at Red Willow County, Nebraska, at upper tier ceiling prices.
3/16/79	Sun Company, Washington, D.C.	DEA-0347, DES-0347 and DES-0189.	Request for Stay, Appeal of ERA Decision and Order. If granted: The Economic Regulatory Administration's February 16 and 21, 1979, Decisions and Orders would be modified and Sun Company would not be required to supply Rock Island Refining Corporation and Gladioux Refinery, Inc. A stay would be granted pending a determination on the Application for Appeal.

If granted: The following firms would receive a temporary stay, a stay, and/or exception from the activation of the Standby Petroleum Product Allocation regulations with respect to motor gasoline.

3/9/79	Amoco Oil Company, Chicago, Illinois	DES-2257 and DST-2257.	Request for Stay and Temporary Stay.
3/9/79	Beadel Enterprises, West Palm Beach, Florida	DST-2321 and DEE-2321.	Allocation Exception, Request for Temporary Stay.
3/9/79	Blarney Castle Oil Company, Bear Lake, Michigan	DST-2239	Request for Temporary Stay.
3/9/79	Century Oil Company, Hutchinson, Kansas	DES-0172	Request for Stay.
3/9/79	Commerce Crossroads Service, Inc., Yorktown Heights, New York	DEE-2320, DES-2320 and DST-2320.	Allocation Exception, Request for Stay and Temporary Stay.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Mar. 9 through Mar. 16, 1979]

Date	Name and location of applicant	Case No.	Type of submission
3/9/79	DeLozier Chevron, Atlanta, Georgia	DEE-2300, DES-2300 and DST-2300.	Allocation Exception, Request for Stay and Temporary Stay.
3/9/79	Harry Jacobs & Associates, Inc., Chattanooga, Tennessee	DST-0025	Request for Temporary Stay.
3/9/79	Lloyd R. Cra's Oil Company, New Orleans, Louisiana	DEE-2478 and DES-2478.	Allocation Exception, Request for Stay.
3/9/79	Miller Enterprises, Inc., Crescent City, Florida	DEE-2325 and DST-2325.	Allocation Exception, Request for Temporary Stay.
3/9/79	People's Oil & Gas Company, Pigeon, Michigan	DES-0174	Request for Stay.
3/9/79	Petro-Wash, Inc., Atlanta, Georgia	DEE-2318 and DST-2318.	Allocation Exception, Request for Temporary Stay.
3/9/79	Sams Oil Corporation, New Smyrna Beach, Florida	DEE-2323 and DST-2323.	Allocation Exception, Request for Temporary Stay.
3/9/79	Schaeffer Oil, Inc., Winner, South Dakota	DEE-2332, DES-2332 and DST-2332.	Allocation Exception, Request for Stay and Temporary Stay.
3/9/79	Scott Boulevard Chevron, Decatur, Georgia	DEE-2814 and DES-2814.	Allocation Exception, Request for Stay.
3/9/79	Sunset 66, Inc., Miami, Florida	DEE-2351 and DST-0026.	Allocation Exception, Request for Temporary Stay.
3/9/79	Tax Service, Inc., Huntington, West Virginia	DEE-2319	Allocation Exception.
3/12/79	Ashland Oil Company, Washington, D.C.	DES-0177 and DST-0177.	Request for Stay and Temporary Stay.
3/12/79	Bi-Lo Oil Company, Orlando, Florida	DEE-2341 and DST-2341.	Allocation Exception, Request for Temporary Stay.
3/12/79	Blanton Petroleum, Moultrie, Georgia	DEE-2340, DES-2340 and DST-2340.	Allocation Exception, Request for Stay and Temporary Stay.
3/12/79	Brentwood Exxon, Raleigh, North Carolina	DEE-2363	Allocation Exception.
3/12/79	Briarvista Chevron, Atlanta, Georgia	DEE-2328, DST-2328 and DES-2320.	Allocation Exception, Request for Stay and Temporary Stay.
3/12/79	Brilad Oil Company, Vidalia, Georgia	DEE-2333, DES-2333 and DST-2333.	Allocation Exception, Request for Stay and Temporary Stay.
3/12/79	Bryant & Blount Oil Company, Branson, Missouri	DEE-2405	Allocation Exception.
3/12/79	C. M. Routh Oil Company, Winston-Salem, North Carolina	DEE-2355	Allocation Exception.
3/12/79	Calfee's Minute Market, Dalton, Georgia	DEE-2356	Allocation Exception.
3/12/79	Charles Hasting Oil Company, Inc., Waynesboro, Tennessee	DEE-2350 and DST-2350.	Allocation Exception, Request for Temporary Stay.
3/12/79	Clark's Exxon, Mauldin, South Carolina	DEE-2382, DES-2382 and DST-2382.	Allocation Exception, Request for Stay and Temporary Stay.
3/12/79	Clyde Oil Company, Ypsilanti, Michigan	DES-0175	Request for Stay.
3/12/79	Duke Oil Company, Inc., Mineral, Virginia	DEE-2334 and DES-2334.	Allocation Exception, Request for Stay and Temporary Stay.
3/12/79	Ellingsen-MacLean Oil Company, Escanaba, Michigan	DEE-2342 and DST-2342.	Allocation Exception, Request for Temporary Stay.
3/12/79	Evert Oil Company, Inc., Kansas City, Missouri	DEE-2387 and DES-2387.	Allocation Exception, Request for Stay.
3/12/79	Fleet-Wing River Oil Company, Marietta, Ohio	DEE-2335, DES-2335 and DST-2335.	Allocation Exception, Request for Stay and Temporary Stay.
3/12/79	Forward Corporation, Standish, Michigan	DEE-2329	Allocation Exception.
3/12/79	Grossenbacher Oil Company, Austin, Texas	DEE-2324, DES-2324 and DST-2324.	Allocation Exception, Request for Stay and Temporary Stay.
3/12/79	Hagan-Kennington Oil Company, Inc., Gastonia, North Carolina	DEE-2383	Allocation Exception.
3/12/79	Hardee World, Inc., Rocky Mount, North Carolina	DEE-2336, DES-2336 and DST-2336.	Allocation Exception, Request for Stay and Temporary Stay.
3/12/79	Health Oil & Distributing, Mena, Arkansas	DEE-2337, DES-2337 and DST-2337.	Allocation Exception, Request for Stay and Temporary Stay.
3/12/79	Hughes Oil Company, Daytona Beach, Florida	DEE-2344 and DST-2334.	Allocation Exception, Request for Temporary Stay.
3/12/79	Hutton's Grove City 66, Grove City, Florida	DEE-2343, DES-2343 and DST-2343.	Allocation Exception, Request for Stay and Temporary Stay.
3/12/79	J. B. Davis, Inc., Madison, Florida	DEE-2345 and DST-2345.	Allocation Exception, Request for Temporary Stay.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Mar. 9 through Mar. 16, 1979]

Date	Name and location of applicant	Case No.	Type of submission
3/12/79	J. H. Wilson Oil Company, Lithonia, Georgia	DEE-2338, DES-2338 and DST- 2338.	Allocation Exception, Request for Stay and Temporary Stay.
3/12/79	Leo Anger, Inc., Austin, Texas	DEE-2326, DES-2326 and DST- 2326.	Allocation Exception, Request for Stay and Temporary Stay.
3/12/79	McMahon Oil Company, Newton, Texas	DEE-2346 and DST-2348.	Allocation Exception, Request for Temporary Stay.
3/12/79	Norcom Oil Company, Inc., Burlington, North Carolina.	DEE-2339, DES-2339 and DST- 2339.	Allocation Exception, Request for Stay and Temporary Stay.
3/12/79	Rex Oil Company, Denver, Colorado	DEE-2418	Allocation Exception.
3/12/79	San Ann Service, Inc., Boaz, Alabama	DEE-2330 and DST-2330.	Allocation Exception, Request for Temporary Stay.
3/12/79	Southern Fuel Distributors, Portsmouth, Virginia	DEE-2353 and DES-2353.	Allocation Exception, Request for Temporary Stay.
3/12/79	Southwest Oil Company, Inc., Big Stone Gap, Virginia.	DEE-2357	Allocation Exception.
3/12/79	Walt Stewart, Tampa, Florida	DEE-2460	Allocation Exception.
3/12/79	Superior Oil Company, Miami, Florida	DEE-2352, DES-2352 and DST- 2352.	Allocation Exception, Request for Stay and Temporary Stay.
3/12/79	Terry Exxon, Holly Hill, Florida	DEE-2349, DES-2349 and DST- 2349.	Allocation Exception, Request for Stay and Temporary Stay.
3/12/79	Vaughn Oil Company, Omaha, Nebraska	DEE-2358	Allocation Exception.
3/12/79	Vish's Chevron Service, Lexington, Kentucky	DEE-2813, DES-2813 and DST- 2813.	Allocation Exception, Request for Stay and Temporary Stay.
3/12/79	Webco Southern Oil, Smyrna, Georgia	DEE-2354 and DST-2354.	Allocation Exception, Request for Temporary Stay.
3/13/79	Arrow Oil Company, Kansas City, Missouri	DEE-2433, DES-2433 and DST- 2433.	Allocation Exception, Request for Stay and Temporary Stay.
3/13/79	Autotronic Systems, Inc., Denver, Colorado	DEE-2397 and DES-2397.	Allocation Exception, Request for Stay.
3/13/79	Bitterroot Exxon Distributor, Stevensville, Montana	DEE-2390, DES-2390 and DST- 2390.	Allocation Exception, Request for Stay and Temporary Stay.
3/13/79	Black Coach Enterprises, Bonham, Texas	DEE-2364, DES-2364 and DST- 2364.	Allocation Exception, Request for Stay and Temporary Stay.
3/13/79	Buter Oil Company, Grant, Michigan	DEE-2407 and DES-2407.	Allocation Exception, Request for Stay.
3/13/79	C.R. Enterprises, Park City, Utah	DEE-2413 and DES-2413.	Allocation Exception, Request for Stay.
3/13/79	Cal Bliss Enterprises, Kansas City, Missouri	DEE-2388 and DES-2388.	Allocation Exception, Request for Stay.
3/13/79	L. E. Caffey, Mangum, Oklahoma	DEE-2375 and DES-2375.	Allocation Exception, Request for Stay.
3/13/79	Carroll Oil Company, Brush, Colorado	DEE-2379, DES-2379 and DST- 2379.	Allocation Exception, Request for Stay and Temporary Stay.
3/13/79	Carse Oil Company, Orlando, Florida	DEE-2367 and DST-2367.	Allocation Exception, Request for Temporary Stay.
3/13/79	Cohodes Oil Company, Iron Mountain, Michigan	DEE-2391 and DST-2391.	Allocation Exception, Request for Temporary Stay.
3/13/79	Comer Pantry Food, Greenboro, Georgia	DEE-2408 and DES-2408.	Allocation Exception, Request for Stay.
3/13/79	Crystal Flash Petroleum Corporation, Indianapolis, Indiana.	DEE-2379	Allocation Exception.
3/13/79	Delta Petroleum Corporation, Fort Lauderdale, Florida.	DEE-2368 and DST-2368.	Allocation Exception, Request for Temporary Stay.
3/13/79	Desbiens Automotive Towing, Portland, Oregon	DEE-2402 and DES-2402.	Allocation Exception, Request for Stay.
3/13/79	East High Sixty-Six, Denver, Colorado	DEE-2409	Allocation Exception.
3/13/79	Fast Stops, Inc., Charleston, South Carolina	DEE-0029	Request for Temporary Stay.
3/13/79	Ferguson Service, Ferguson, Missouri	DEE-2511, DES-2511 and DST- 2511.	Allocation Exception, Request for Stay and Temporary Stay.
3/13/79	Gas-Mart Company, Tulsa, Oklahoma	DEE-2369 and DST-2369.	Allocation Exception, Request for Temporary Stay.
3/13/79	Griffith Oil Company, Manhattan, Kansas	DEE-2410	Allocation Exception.
3/13/79	Gurley Oil Company, Memphis, Tennessee	DES-2206	Request for Stay.
3/13/79	Handeyside Oil Corporation, Elcho, Wisconsin	DEE-2380, DES-2380 and DST- 2380.	Allocation Exception, Request for Stay and Temporary Stay.
3/13/79	Harold's Exxon, Raleigh, North Carolina	DEE-2384	Allocation Exception.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Mar. 9 through Mar. 16, 1979]

Date	Name and location of applicant	Case No.	Type of submission
3/13/79	Industrial Petroleum Supplier of Evansville, Inc., Evansville, Indiana	DEE-2404 and DES-2404	Allocation Exception, Request for Stay.
3/13/79	J. B. McBride Distributor, Inc., Butte, Montana	DEE-2483 and DES-2483	Allocation Exception, Request for Stay.
3/13/79	J. Marzano & Son, Inc., Newark, New Jersey	DEE-2411	Allocation Exception.
3/13/79	Jack Ritter Oil, Austin, Texas	DEE-2365, DES-2365 and DST-2365	Allocation Exception, Request for Stay and Temporary Stay.
3/13/79	Jayhawk Oil Company, Inc., Lawrence, Kansas	DEE-2455	Allocation Exception.
3/13/79	JSR Auto Center, Miami, Florida	DEE-2370 and DST-2370	Allocation Exception, Request for Temporary Stay.
3/13/79	Kettle Moraine Standard, Delafield, Wisconsin	DEE-2412 and DES-2412	Allocation Exception, Request for Stay.
3/13/79	Lee's Grocery, Henderson, North Carolina	DEE-2392	Allocation Exception.
3/13/79	Lynch Oil Company, Kissimmee, Florida	DEE-2371 and DST-2371	Allocation Exception, Request for Temporary Stay.
3/13/79	Metropolitan Petroleum, Miami, Florida	DEE-2372 and DST-2372	Allocation Exception, Request for Temporary Stay.
3/13/79	Nelson's Garage, Mount Holly Springs, Pennsylvania	DEE-2417	Allocation Exception.
3/13/79	Petro-Pantry, Monrovia, Indiana	DEE-2377, DES-2377 and DST-2377	Allocation Exception, Request for Stay and Temporary Stay.
3/13/79	Rapid Service Oil, Roberts, Wisconsin	DEE-2373 and DST-2373	Allocation Exception, Request for Temporary Stay.
3/13/79	Regional Oil Company, Inc., Monroe, Louisiana	DEE-2414 and DES-2414	Allocation Exception, Request for Stay.
3/13/79	Rex Oil Company of Florida, Fort Lauderdale, Florida	DEE-2347 and DST-2347	Allocation Exception, Request for Temporary Stay.
3/13/79	River Oil Company, Memphis, Tennessee	DEE-2348 and DST-2348	Allocation Exception, Request for Temporary Stay.
3/13/79	Riverside Oil, Inc., Evansville, Indiana	DEE-2415 and DES-2415	Allocation Exception, Request for Stay.
3/13/79	Riverside Petroleum, Inc., New Albany, Indiana	DEE-2416	Allocation Exception.
3/13/79	Roettgers Oil, Inc., Milwaukee, Wisconsin	DEE-2385	Allocation Exception.
3/13/79	Saveway Oil, Inc., Tampa, Florida	DEE-2376, DES-2376 and DST-2376	Allocation Exception, Request for Stay and Temporary Stay.
3/13/79	Skip's Mobil, Jennings, Missouri	DEE-2510	Allocation Exception.
3/13/79	Sloan's Dide Oil, Carthage, Tennessee	DEE-2366, DES-2366 and DST-2366	Allocation Exception, Request for Stay and Temporary Stay.
3/13/79	Spring Valley 76, Henderson, North Carolina	DEE-2392	Allocation Exception.
3/13/79	Spruill Oil Company, Carrollton, Georgia	DEE-2394, DES-2394 and DST-2394	Allocation Exception, Request for Stay and Temporary Stay.
3/13/79	Steve Paschall's Texico, Lubbock, Texas	DEE-2395	Allocation Exception.
3/13/79	Strickland Oil Company, Pooler, Georgia	DEE-2386	Allocation Exception.
3/13/79	Suburban Oil Company, Inc., Cincinnati, Ohio	DEE-2445 and DES-2445	Allocation Exception, Request for Stay.
3/13/79	T. J. Dubose Conoco Jobber, Monroe, Louisiana	DEE-2406	Allocation Exception.
3/13/79	Warelubco, Inc., Jacksonville, Illinois	DEE-2396 and DST-2396	Allocation Exception, Request for Temporary Stay.
3/13/79	Young Oil Company, Pompano Beach, Florida	DEE-2374 and DST-2374	Allocation Exception, Request for Temporary Stay.
3/13/79	Zippy Mart, Inc., Jacksonville, Florida	DEE-2381 and DES-2381	Allocation Exception, Request for Stay.
3/13/79	Acoml Corporation, Washington, D.C.	DEE-2465 and DES-2465	Allocation Exception, Request for Stay.
3/14/79	AIA Exxon, Daytona Beach, Florida	DEE-2426 and DST-2426	Allocation Exception, Request for Temporary Stay.
3/14/79	Allied Oil Company, Kalamazoo, Michigan	DEE-2420, DES-2420 and DST-2420	Allocation Exception, Request for Stay and Temporary Stay.
3/14/79	Allinder's Services, Inc., Independence, Missouri	DEE-2419, DES-2419 and DST-2419	Allocation Exception, Request for Stay and Temporary Stay.
3/14/79	Apollo Oil Company, Peoria, Illinois	DEE-2427 and DST-2427	Allocation Exception, Request for Temporary Stay.
3/14/79	Arnold Owens Oil Company, Normal, Illinois	DEE-2447	Allocation Exception.
3/14/79	Bob's Chevron, Long Beach, California	DEE-2530, DES-2530 and DST-2530	Allocation Exception, Request for Stay and Temporary Stay.
3/14/79	Blanton Oil Company, Sullivan, Missouri	DES-0185	Request for Stay.
3/14/79	Jack Bradshaw, Gastonia, North Carolina	DEE-2389, DES-2389 and DST-2389	Allocation Exception, Request for Stay and Temporary Stay.
3/14/79	Bruder's Exxon, Baltimore, Maryland	DEE-2448 and DES-2448	Allocation Exception, Request for Stay.
3/14/79	Carroll Oil Company, Inc., Cheyenne, Wyoming	DEE-2550	Allocation Exception.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Mar. 9 through Mar. 16, 1979]

Date	Name and location of applicant	Case No.	Type of submission
3/14/79	Cassels Oil Company, Aiken, South Carolina	DEE-2421, DES-2421 and DST-2421.	Allocation Exception, Request for Stay and Temporary Stay.
3/14/79	Clay's Auto Service, Vidor, Texas	DEE-2481 and DES-2481.	Allocation Exception, Request for Stay.
3/14/79	Columbia Pike Shell, Ellicott City, Maryland	DEE-2434 and DES-2434.	Allocation Exception, Request for Stay.
3/14/79	Comer Oil, Inc., Fort Myers, Florida	DEE-2428 and DST-2428.	Allocation Exception, Request for Temporary Stay.
3/14/79	Commandant Fifth Naval District, Norfolk, Virginia	DEE-2429 and DST-2429.	Allocation Exception, Request for Temporary Stay.
3/14/79	Coy Burge Oil Company, Wichita, Kansas	DEE-2449	Allocation Exception.
3/14/79	Crest International Petroleum Corporation	DEE-2450 and DES-2450.	Allocation Exception, Request for Stay.
3/14/79	Dalworth Oil Company, Inc., Arlington, Texas	DEE-2435 and DES-2435.	Allocation Exception, Request for Stay.
3/14/79	Daly Oil Company, Peoria, Illinois	DEE-2451	Allocation Exception.
3/14/79	Day-Nite Food, Villa Rica, Georgia	DEE-2422, DES-2422 and DST-2422.	Allocation Exception, Request for Stay and Temporary Stay.
3/14/79	Delta Oil & Supply, Seward, Nebraska	DEE-2452	Allocation Exception.
3/14/79	Dorchester Exxon Station, Charles Heights, South Carolina	DEE-2808, DES-2808 and DST-2808.	Allocation Exception, Request for Stay and Temporary Stay.
3/14/79	Drummond Oil Company, Sioux City, Iowa	DEE-2453	Allocation Exception.
3/14/79	Elm City Filling Station, New Haven, Connecticut	DEE-2423, DES-2423 and DST-2423.	Allocation Exception, Request for Stay and Temporary Stay.
3/14/79	Exxon of Olney, Olney, Maryland	DEE-2454	Allocation Exception.
3/14/79	Fleetwing Corporation, Lakeland, Florida	DEE-2547 and DES-2547.	Allocation Exception, Request for Stay.
3/14/79	Gallian Tire Company, Holly Hill, Florida	DEE-2430 and DST-2430.	Allocation Exception, Request for Temporary Stay.
3/14/79	Lahser & 11 Mile Shell, Southfield, Michigan	DEE-2438 and DES-2438.	Allocation Exception, Request for Stay.
3/14/79	Lee-Moore Oil Company, Sanford, North Carolina	DEE-2436 and DES-2436.	Allocation Exception, Request for Stay.
3/14/79	H. F. Lowm, Graham, Alabama	DST-0031	Request for Temporary Stay.
3/14/79	Matthews Exxon, Matthews, North Carolina	DEE-2456	Allocation Exception.
3/14/79	McCormack Distributing, Denver, Colorado	DEE-2484 and DES-2484.	Allocation Exception, Request for Stay.
3/14/79	Midtown Oil Company, Inc., Kingston, Tennessee	DEE-2437 and DES-2437.	Allocation Exception, Request for Stay.
3/14/79	Monroe Road Exxon, Charlotte, North Carolina	DEE-2457	Allocation Exception.
3/14/79	Mr. K. Exxon, Newberry, South Carolina	DEE-2470 and DST-2470.	Allocation Exception, Request for Temporary Stay.
3/14/79	Payne's Oil Company, Inc., Clearwater, Florida	DEE-2431 and DST-2431.	Allocation Exception, Request for Temporary Stay.
3/14/79	Pep-o Petroleum Company, Inc., Jacksonville, Florida	DEE-2432 and DST-2432.	Allocation Exception, Request for Temporary Stay.
3/14/79	Petro Lock, Inc., Lancaster, California	DEE-2500	Allocation Exception.
3/14/79	Phenix Petroleum Products, Inc., Atlanta, Georgia	DEE-2458	Allocation Exception.
3/14/79	Ruffin Oil Company, Wichita, Kansas	DEE-2439 and DES-2439.	Allocation Exception, Request for Stay.
3/14/79	Saginaw Valley Oil, Saginaw, Michigan	DEE-2440 and DES-2440.	Allocation Exception, Request for Stay.
3/14/79	Scotland Oil Company, Alma, Michigan	DEE-2441 and DES-2441.	Allocation Exception, Request for Stay.
3/14/79	Scott Oil, Inc., Clinton, Indiana	DEE-2442 and DES-2442.	Allocation Exception, Request for Stay.
3/14/79	Shoreline Petroleum Company, Skokie, Illinois	DEE-2424, DES-2424 and DST-2424.	Allocation Exception, Request for Stay and Temporary Stay.
3/14/79	Silverman Oil Company, Paris, Illinois	DEE-2459	Allocation Exception.
3/14/79	Springer-Eubank Oil Company, Wilmington, North Carolina	DEE-2443 and DES-2443.	Allocation Exception, Request for Stay.
3/14/79	Steil Oil Company, Inc., Vero Beach, Florida	DEE-2444 and DES-2444.	Allocation Exception, Request for Stay.
3/14/79	Summit Car Care, Kansas City, Missouri	DEE-2461 and DES-2461.	Allocation Exception, Request for Stay.
3/14/79	Township Oil Company, Warren, Michigan	DEE-2462	Allocation Exception.
3/14/79	Travelers Petroleum, Anderson, South Carolina	DEE-2446 and DES-2446.	Allocation Exception, Request for Stay.
3/14/79	Tripos Chevron, Somerville, New Jersey	DEE-2501, DES-2501 and DST-2501.	Allocation Exception, Request for Stay and Temporary Stay.
3/14/79	Village Amoco, McMinnville, Tennessee	DEE-2545	Allocation Exception.
3/14/79	Wayne's Standard Service, Menomonie Falls, Wisconsin	DEE-2463	Allocation Exception.
3/14/79	West Asheville Exxon #2, Asheville, North Carolina	DEE-2425, DES-2425 and DST-2425.	Allocation Exception, Request for Stay and Temporary Stay.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Mar. 9 through Mar. 16, 1979]

Date	Name and location of applicant	Case No.	Type of submission
3/14/79	Westgate Oil Company, Muskegon, Michigan	DEE-2464	Allocation Exception.
3/14/79	Wilkes Oil Company, Brookville, Florida	DEE-2468 and DST-2468.	Allocation Exception, Request for Temporary Stay.
3/14/79	Myron Yarbrough, Memphis, Tennessee	DEE-2482 and DES-2482.	Allocation Exception, Request for Stay.
3/15/79	ADCO, Inc. d/b/a Quintard Exxon, Anniston, Alabama	DEE-2552	Allocation Exception.
3/15/79	Henry Austin, Birmingham, Alabama	DEE-2527	Allocation Exception.
3/15/79	B & O Shell Service, Augusta, Georgia	DEE-2553	Allocation Exception.
3/15/79	Bearsch's Penn Jersey Auto Store, Abingdon, Maryland	DEE-2477, DES-2477.	Allocation Exception, Request for Temporary Stay and Stay.
3/15/79	Bert's Exxon, Potomac, Maryland	DES-2498 and DEE-2496.	Allocation Exception, Request for Stay.
3/15/79	Marshall L. Bjort, Polson, Montana	DEE-2504	Allocation Exception.
3/15/79	Black's Shell Service, Spartanburg, South Carolina	DEE-2544 and DES-2544.	Allocation Exception and Request for Stay.
3/15/79	Boardman Petroleum, Inc., Augusta, Georgia	DEE-2488 and DES-2488.	Allocation Exception and Request for Stay.
3/15/79	Bob's Amoco, Charleston, South Carolina	DEE-2524	Allocation Exception.
3/15/79	Roland Boudreaux, Rayney, Louisiana	DEE-2516	Allocation Exception.
3/15/79	Boulder Valley Oil Co., Lafayette, Colorado	DEE-2495 and DES-2495.	Allocation Exception, Request for Stay.
3/15/79	Champion Petroleum Corp., Painesville, Ohio	DEE-2522	Allocation Exception.
3/15/79	Chevron (Standard) Oil Service	DEE-2555 and DES-2555.	Allocation Exception, Request for Stay.
3/15/79	E. D. Christensen, Hanahan, South Carolina	DEE-2525	Allocation Exception.
3/15/79	Circle S Service, Eureka, Montana	DEE-2531	Allocation Exception.
3/15/79	"Circus World" Shell Service, Davenport, Florida	DEE-2546	Allocation Exception.
3/15/79	Clear Creek Oil Co., Golden, Colorado	DEE-2518	Allocation Exception.
3/15/79	Coldwater Oil Co., Coldwater, Ohio	DEE-2514	Allocation Exception.
3/15/79	Craig Shell Station, Jacksonville, Florida	DEE-2551	Allocation Exception.
3/15/79	Don Cramer, Lakewood, Colorado	DEE-2509	Allocation Exception.
3/15/79	Dade Oil Company, Hialeah, Florida	DEE-2491 and DES-2491.	Allocation Exception, Request for Stay.
3/15/79	Dauphin & Sage Shell, Mobile, Alabama	DEE-2543, DES-2543, and DST- 2543.	Allocation Exception, Request for Temporary Stay and Stay.
3/15/79	Robert B. Davison, Hamilton, Montana	DEE-2506	Allocation Exception.
3/15/79	Fargo, Inc., Little Rock, Arkansas	DEE-2533 and DES-2533.	Allocation Exception, Request for Stay and Temporary Stay.
3/15/79	Fisco Oil Co., Kansas City, Kansas	DEE-2505	Allocation Exception.
3/15/79	Friendly Oil Company, Alhambra, California	DEE-2474, DES-2474, and DST- 2474.	Allocation Exception, Request for Stay and Temporary Stay.
3/15/79	Fuller's 66, Salt Lake City, Utah	DEE-2520	Allocation Exception.
3/15/79	Glover Oil Company, Melbourne, Florida	DEE-2534	Allocation Exception.
3/15/79	Henderson Oil Company, Columbia, Missouri	DEE-2475, DES-2475, and DST- 2475.	Allocation Exception, Request for Stay and Temporary Stay.
3/15/79	Robert O. Hixon, Birmingham, Alabama	DEE-2526	Allocation Exception.
3/15/79	Home Service Oil Company, Barnhart, Montana	DEE-2489 and DES-2489.	Allocation Exception and Request for Stay.
3/15/79	Howie Oil Company, Pensacola, Florida	DEE-2549	Allocation Exception.
3/15/79	Jim's Central City Service, St. Louis, Missouri	DEE-2512, DES-2512, and DST- 2512.	Allocation Exception, Request for Stay and Temporary Stay.
3/15/79	Joe's Getty Station, Conshohocken, Pennsylvania	DEE-2469 and DST-2469.	Allocation Exception, Request for Temporary Stay.
3/15/79	Jones Oil Company, Inc., Memphis, Tennessee	DEE-2493, DES-2493, and DST- 2493.	Allocation Exception, Request for Stay and Temporary Stay.
3/15/79	Kelley Gas & Oil, Narrows, Virginia	DEE-2517	Allocation Exception.
3/15/79	Key Oil Company, Inc., Franklin, Kentucky	DEE-2528	Allocation Exception.
3/15/79	Lammers & Gerding, Ottawa, Ohio	DEE-2535	Allocation Exception.
3/15/79	Locust Grove Standard Station, Locust Grove, Georgia	DEE-2472, DES-2472, and DST- 2472.	Allocation Exception, Request for Stay and Temporary Stay.
3/15/79	M & G Food Center, Eden, North Carolina	DEE-2595, DES-0178, and DST- 0178.	Allocation Exception, Request for Temporary Stay and Stay.
3/15/79	J. F. McCulley, Overland Park, Kansas	DEE-2486 and DES-2486.	Allocation for Exception and Request for Stay.
3/15/79	Nelson-Wilson, Inc., Missoula, Montana	DEE-2503	Allocation Exception.
3/15/79	Northgate Texaco, Chattanooga, Tennessee	DEE-2554 and DES-2554.	Allocation Exception, Request for Stay.
3/15/79	Ozark County Gas Co., Gainesville, Missouri	DEE-2513	Allocation Exception.
3/15/79	Palm Oil Co., Inc., Coasta Mesa, California	DEE-2497 and DES-2497.	Allocation Exception and Request for Stay.
3/15/79	Pates Wholesale Exxon, Lakewood, California	DEE-2507 and DES-2507.	Allocation Exception, Request for Stay.
3/15/79	Patriot Petroleum, Inc.	DEE-2523	Allocation Exception.
3/15/79	Pine Ridge, Merrill, Wisconsin	DEE-2498	Allocation Exception.
3/15/79	Riddell Petroleum Company, Denver, Colorado	DST-0032	Request for Temporary Stay.
3/15/79	S and S Oil Company, Inc., Jesup, Georgia	DEE-2519	Allocation Exception.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Mar. 9 through Mar. 16, 1979]

Date	Name and location of applicant	Case No.	Type of submission
3/15/79	Sabo Oil Company, Topeka, Kansas	DEE-2467, DES-2467 and DST- 2467.	Allocation Exception, Request for Temporary Stay and Stay.
3/15/79	Sander Oil Company, Salida, Colorado	DEE-2529	Allocation Exception.
3/15/79	Shoals Creek Chevron, Florence, Alabama	DEE-2476, DES-2476 and DST- 2476.	Allocation Exception, Request for Stay and Temporary Stay.
3/15/79	Steve's Exxon Servicenter, Greenbelt, Maryland	DEE-2473, DES-2473 and DST- 2473.	Allocation for Exception, Request for Temporary Stay.
3/15/79	Stinson Grocery	DEE-2492 and DES-2492.	Allocation Exception, and Request for Stay.
3/15/79	UCO Oil Company, Whittier, California	DEE-2487, DES-2487 and DST- 2487.	Allocation Exception, Request for Stay and Temporary Stay.
3/15/79	W. W. Fowler Oil Company, Mableton, Georgia	DEE-2515	Allocation Exception.
3/15/79	Werner Oil Company Inc., Kansas City, Missouri	DEE-2490 and DES-2490.	Allocation Exception, Request for Stay.
3/16/79	Big K Oil Company, Inc., Hattiesburg, Mississippi	DEE-2494 and DES-2494.	Allocation Exception, and Request for Stay.
3/16/79	Brucker Service Station, Bronx, New York	DEE-2485 and DES-2485.	Allocation Exception, Request for Stay.
3/16/79	Empire Petroleum, Inc., Toledo, Ohio	DEE-2499	Allocation Exception.
3/16/79	Marblehead Services, Inc., Marblehead, Massachusetts.	DEE-2471, DES-2471 and DST- 2471.	Allocation Exception, Request for Temporary Stay and Stay.
3/16/79	Melvin Grover Motor Co., Townsend, Montana	DEE-2480 and DES-2480.	Allocation Exception, Request for Stay.
3/16/79	Poe's Exxon Service, Townsend, Montana	DEE-0179	Request for Stay.
3/16/79	Robert H. Hart & Sons Inc., Winter Haven, Florida	DEE-2479, DES-2479 and DST- 2479.	Allocation Exception, Request for Stay and Temporary Stay.
3/16/79	Whitfield Oil Company, Chicanauga, Georgia	DEE-2621	Allocation Exception.

Notices of Objection Received

Date	Name and location of applicant	Case No.
3/12/79	Johnson, Donald (D & J Oil Co.), Park City, Utah	DEX-0042
3/14/79	Commercial Bottle Gas, Oxford, North Carolina	DEE-0968
3/14/79	Union Oil Co. of California, Los Angeles, California	DEE-2102

Proposed Remedial Orders

3/12/79	A. Tarricone, Inc., New York, New York	DRO-0182
3/16/79	Rhodes Drilling Company, Abilene, Texas	DRO-0181

[FR Doc. 79-18220 Filed 6-12-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; April 23 through April 27, 1979

Notice is hereby given that during the period April 23 through April 27, 1979, the Proposed Decisions and Orders which are summarized below were

issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision

and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m. e.d.t., except Federal holidays.

Melvin Goldstein,
Director, Office of Hearings and Appeals.
June 7, 1979.

Proposed Decisions and Orders

Atlantic Oil Co., Los Angeles Calif., DEE-2134, crude oil

Atlantic Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Coykendall Lease located in Orange County, California, at upper tier ceiling prices. On April, 27, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to Atlantic's Coykendall Lease.

Glickman, Inc., Wichita, Kans., DEE-2211, crude oil

Glickman, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Glickman to sell the crude oil produced for the benefit of the working interest owners at the Burch Lease at upper tier ceiling prices. On April 24, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Save O.K. Oil & Gas, Macon, Ga., DEE-2048, motor gasoline

Save O.K. Oil & Gas filed an Application for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception request, if granted, would result in an increase in the firm's base period allocation of motor gasoline for the months of March, April, and May 1979. On April 24, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

Exception

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in each firm's base period allocation of motor gasoline for the months of March, April, and May 1979. During the week of April 23-27, 1979, the DOE issued Proposed Decisions and Orders which determined that the exception request be granted:

Red Bluff Mobil Service Center, Pasadena, Tex., DEE-3111

Palm Oil Co., Costa Mesa, Calif., DEE-2497
Sav-Mor Oil Co., Los Angeles, Calif., DEE-3170

Terry's Mobil, Red Lake Falls, Minn., DEE-2900

Walter's North Bellmore Exxon, N. Bellmore, N.Y., DEE-2244

Jesse Morales, Jr., Uvalde, Tex., DEE-3084
L. J. Bonnaffons, New Orleans, La., DEE-3721
Steve's Gulf Service, Tryon, N.C., DEE-2574
Bingo Exxon, Muscle Shoals, Ala., DEE-2726
Givan's Exxon, Watertown, Tex., DEE-3116
Phillips & Munzell Shell, Tuskin, Fla., DEE-2925

[FR Doc. 79-18328 Filed 6-12-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; April 30 through May 4, 1979

Notice is hereby given that during the period April 30 through May 4, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to

the issuance of the Proposed Decision and Order in final form.

Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m. e.d.t., except federal holidays.

June 7, 1979.

Melvin Goldstein,
Director, Office of Hearings and Appeals.

Proposed Decisions and Orders

E. B. Brooks, Jr., Dallas, Tex., DEE-2223, crude oil

E. B. Brooks, Jr., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Brooks to sell the crude oil produced from the Baptist Foundation Lease for the benefit of the working interest owners at stripper well prices. On May 1, 1979 the DOE issued a Proposed Decision and Order which determined that the Baptist Foundation Lease does not qualify as a stripper well property.

Champlin Petroleum Co., Fort Worth, Tex., DXE-2212

Champlin Petroleum Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell 62.26 percent of the crude oil which it produces from the State of New Mexico No. 18 Property at upper tier ceiling prices. On April 30, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to Champlin's State of New Mexico No. 18 Property.

Chevron, U.S.A. Inc., Los Angeles, Calif., DEE-3153, motor gasoline

Chevron U.S.A. Inc. filed an Application for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception request, if granted, would permit Chevron to supply approximately 250 of its branded retail outlets with volumes of motor gasoline in excess of their base period allocation. It would also permit Chevron to become the base period supplier for approximately 184 purchasers which were

buying gasoline from Chevron on January 31, 1979 but which had different base period suppliers. On May 3, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

Crown Central Petroleum Corp., Bellaire, Tex., DXE-2230

Crown Central Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell 11.28 percent of the crude oil which it produces from the Santa Ana and Fresno Land Lease at upper tier ceiling prices. On April 30, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to Crown Central's Santa Ana and Fresno Land Lease.

Pennzoil Producing Co., Houston, Tex., DXE-2189

Pennzoil Producing Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell 100 percent of the crude oil which it produces from the Perry Sand Waterflood Unit, North Segment, at upper tier ceiling prices. On April, 30, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to Pennzoil's Perry Sand Waterflood Unit, North Segment.

Phillips Petroleum Co., Bartlesville, Okla., DEE-2169

Phillips Petroleum Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, in which the firm requested that it be permitted to sell the crude oil produced from the Crone "C" lease, located in Columbia County, Arkansas, at prevailing market prices. On April 30, 1979, the DOE issued a Proposed Decision and Order which determined that the Phillips request be granted.

Phillips Petroleum Co., Bartlesville, Okla., crude oil, DXE-2174

Phillips Petroleum Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, in which the firm requested that it be permitted to continue to sell at market prices certain of the crude oil produced from the Theimer "D" Lease, located in Oklahoma County, Oklahoma. On May 2, 1979, the DOE issued a Proposed Decision and Order which determined that the Phillips exception request be granted.

S & W Engine Supply Co., Oklahoma City, Okla., crude oil, DXE-3444

S & W Engine Supply Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously

granted and would permit the applicant to continue to sell certain quantities of crude oil which it produces from the Baker Townsend Lease, located in Oklahoma County, Oklahoma, at upper tier ceiling prices. On April 30, 1979, the DOE issued a Proposed Decision and Order which determined that S & W Engine Supply should be permitted to sell 78.37 percent of the crude oil produced and sold for the benefit of the working interest owners from the Baker Townsend Lease at upper tier ceiling prices.

Shell Oil Co., Houston, Tex., DEE-2894, motor gasoline

The Shell Oil Company filed an Application for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception request, if granted, would permit Shell to allocate motor gasoline to approximately 970 branded Shell retail sales outlets on a basis different from that specified in the DOE allocation regulations. On May 2, 1979, the DOE issued a Proposed Decision and Order in which it proposed to grant the request in part.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of April 30 through May 4, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline for the months of March, April and May 1979. The DOE issued Proposed Decisions and Order which determined that the exception requests be granted.

Company name	Case No.	Location
Holiday Foods, Inc.	DEE-2752	Des Moines, Wash.
River Oil Co.	DEE-2348	Memphis, Tenn.
Tom's Village Arco	DEE-3181	Sturtevant, Ws.
Bud Wolfe's Arco Mini-Market	DEE-3337	Redlands, Calif.
Manchester Shell	DEE-3541	Inglewood, Calif.
Brentwood Exxon	DEE-2363	Raleigh, N.C.
Farel Little Oil Co.	DEE-2627	St. Augustine, Fla.
Keahey's Friendly Service	DEE-3209	Hot Springs, Ariz.
AIA Exxon	DEE-2426	Daytona Beach, Fla.

[FR Doc. 79-18327 Filed 6-12-79; 8:45 am].

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders; Week of May 11 through May 18, 1979

Notice is hereby given that during the week of May 11 through May 18, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

By July 3, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). By July 13, 1979, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C. June 7, 1979.

Melvin Goldstein,

Office of Hearings and Appeals.

Red Triangle Oil Co., Fresno, Calif., DRO-0213, motor gasoline

On May 15, 1979, Red Triangle Oil Co., 2809 South Chestnut Street, Fresno, California 93745, filed a Notice of Objection to a Proposed Remedial Order which the DOE Western Enforcement District issued to Red Triangle on April 13, 1979. In the Proposed Remedial Order, the Enforcement District found that during the period from November 1, 1973 through April 30, 1974, Red Triangle committed pricing violations in the State of California in connection with resales of motor gasoline. According to the Proposed Remedial Order, Red Triangle's violations resulted in overcharges of \$91,298.88.

Lowe Oil Co., Clinton, Mo., DRO-0215, motor oils and motor gasoline

ON May 17, 1979, Lowe Oil Company, 510 Price Lane, Clinton, Missouri 64735, filed a Notice of Objection to a Proposed Remedial Order which the Central Enforcement District of the Economic Regulatory Administration of the Department of Energy issued to the firm on April 17, 1979. In the Proposed Remedial Order, the Enforcement District found that during the time period November 1, 1973 through April 30, 1974, Lowe Oil Company committed pricing violations in sales of motor oils and motor gasoline to customers in the State of Missouri. According to the Proposed Remedial Order, Lowe Oil Company's violations of the provisions of 10 CFR Part

212 resulted in overcharges to its customers of \$83,298.31.

[FR Doc. 79-18326 Filed 6-12-79; 8:45 am]
BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of May 18 through May 25, 1979

Notice is hereby given that during the week of May 18 through May 25, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

By July 3, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). By July 13, 1979, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C. June 7, 1979.
Melvin Goldstein,
Director, Office of Hearings and Appeals.

Bill J. Graham, Midland, Tex., DRO-0216, crude oil

On May 22, 1979, Bill J. Graham, P.O. Box 5321, Midland, Texas 79702, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest Enforcement District issued to Graham on May 3, 1979. In the Proposed Remedial Order, the Enforcement District found that during the period from September 1, 1973, through February 28, 1977, Graham committed pricing violations in Texas and New Mexico in connection with the sale of crude oil. According to the Proposed Remedial Order, Graham's violations resulted in overcharges to his customers, the Permian Corporation, and the Scurlock Oil Company, of \$117,520.10.

Michaelson Producing Co., Midland, Tex., DRO-0217, crude oil

On May 22, 1979, Michaelson Producing Company, 1404 Gihls Tower West, Midland, Texas 79701, filed a Notice of Objection to a Revised Proposed Remedial Order which the DOE Southwest Enforcement District issued to the firm on May 7, 1979. In the Revised Proposed Remedial Order, the Enforcement District found that during the period from September 1, 1973, through December 31,

1975, Michaelson committed pricing violations in the State of Texas in connection with the production and sale of crude oil. According to the Revised Proposed Remedial Order, the firm's violations resulted in overcharges to its customer, the Permian Corporation, of \$329,560.84.

RPL Oil Co., Inc., Midland, Tex., DRO-0218, crude oil

On May 17, 1979, RPL Oil Company, Inc., P.O. Box 5456, Midland, Texas 79701, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest Enforcement District issued to it on May 11, 1979. In the Proposed Remedial Order, the Enforcement District found that during the period January 1, 1974, through December 31, 1974, RPL committed pricing violations in the State of Texas in connection with the production and sale of crude oil. According to the Proposed Remedial Order, the firm's violations resulted in overcharges to its customers of \$82,363.80.

Texas City Refining, Inc., Texas City, Tex., DRO-0219, motor gasoline

On May 24, 1979, Texas City Refining, Inc. (TCR), P.O. Box 1271, Texas City, Texas 75590, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the Office of Special Counsel for Compliance (OSC) issued to the firm on May 14, 1979. In the IROIC, the OSC ordered TCR to supply motor gasoline to the Edmunds Street Oil Corporation (ESO), a wholesale purchaser-reseller. The IROIC was based upon a funding that ESO had acquired the entire ongoing business operations of Edmondson's Oil Company, a base period purchaser of TCR, and that ESO was therefore entitled to purchase Edmondson's base period entitlement of motor gasoline from TCR.

[FR Doc. 79-18330 Filed 6-12-79; 8:45 am]
BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of May 25 through June 1, 1979

Notice is hereby given that during the week of May 25 through June 1, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

By July 3, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). By July 13, 1979, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons

may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C. June 7, 1979.

Melvin Goldstein,
Director, Office of Hearings and Appeals.

On May 29, 1979, each of the seven firms listed below filed a Notice of Objection to the Proposed Remedial Order that the DOE Office of Special Counsel (OSC) issued to that firm on May 1, 1979. By filing Notices of Objection, these seven firms have declared their intent to contest the findings of fact and conclusions of law contained in the Proposed Remedial Order that was issued to it. The OSC found in each of the Proposed Remedial orders that the firm involved had committed pricing violations during the period September 1973 through March 1979 in sales of crude oil produced from a number of properties located throughout the United States. As restitution for the overcharges, including interest accrued thereon, the OSC directed the seven firms to pay to the United States Treasury the sums of money indicated below:

Atlantic Richfield Company, 515 South Flower Street, Los Angeles, California 90071. (Case No. DRO-0193)—\$42,023,718.03.

Gulf Oil Corporation and Gulf Exploration & Production Co., Gulf Building, Post Office Box 1166, Pittsburgh, Pennsylvania 15230. (Case No. DRO-0194)—\$577,959,476.83.

Marathon Oil Company, Inc., 539 South Main Street, Findlay, Ohio 45840. (Case No. DRO-0195)—\$29,063,515.63.

Standard Oil Company of California and Chevron, U.S.A., Inc., 235 Bush Street, San Francisco, California 94104. (Case No. DRO-0196)—\$101,618,243.07.

Standard Oil Company of Indiana and Amoco Production Company, 200 East Randolph Drive, Chicago, Illinois 60601. (Case No. DRO-0198)—\$23,854,306.70.

Standard Oil Company (Ohio), Midland Building, Cleveland, Ohio 44115. (Case No. DRO-0197)—\$16,969,407.46.

Texaco, Inc., 2000 Westchester Avenue, White Plains, New York 10650. (Case No. DRO-0199)—\$888,328,899.00.

In addition to the Notices of Objection filed by the seven firms listed above, further Notices of Objection to the OSC's May 1, 1979 Proposed Remedial Orders were filed by the following firms on May 29 and May 30, 1979:

Southland Royalty Company, 1000 Fort Worth Club Tower, Fort Worth, Texas 76102.

with respect to the Proposed Remedial Order issued to Gulf Oil Corporation;

Louisiana Land and Exploration Company, Box 60350, New Orleans, Louisiana 70160.

with respect to the Proposed Remedial Orders issued to Marathon Oil Company and to Texaco, Inc.; and

The State of Louisiana, Department of Justice, State Capitol, P.O. Box 44005, Baton Rouge, Louisiana 70804.

with respect to the Proposed Remedial Order issued to Texaco, Inc.

Exxon Co., U.S.A., Houston, Tex., DRO-0221, Motor Gasoline

On May 29, 1979, Exxon Company, U.S.A., 800 Bell Street, Houston, Texas 77002, filed a Notice of Objection in which it indicates that it will contest an Interim Remedial Order for Immediate Compliance (IROIC) which the DOE Office of Special Counsel, Southwest Refiner District, issued to it on May 16, 1979. In the IROIC, the Special Counsel found that (i) during the period from March through May 1979, Exxon violated the DOE Mandatory Petroleum Allocation Regulations by refusing to supply the Hydrocarbon Trading and Transport Company of Houston, Texas, with its base period volume of motor gasoline, as reduced by the application of Exxon's allocation fraction, (ii) that the violation was continuing, and (iii) that Hydrocarbon would be irreparably harmed unless an IROIC were issued immediately. The IROIC directed Exxon to make available to Hydrocarbon the volumes of motor gasoline which it was entitled to receive under Part 211 in March and April 1974, as well as that firm's May 1979 allocation level.

Dalton J. Woods, Shreveport, La., DRO-0222, crude oil

On May 30, 1979, Dalton J. Woods, 1412 Mid South Tower, Shreveport, Louisiana 71101, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest Enforcement District issued to him on May 15, 1979. In the Proposed Remedial Order, the Enforcement District found that during the time period January 1975 through July 1976, Woods committed pricing violations in the State of Louisiana in connection with the production and sale of crude oil. According to the Proposed Remedial Order, Woods' violations resulted in overcharges to its customers of \$51,392.91. [FR Doc. 79-18329 Filed 6-12-79; 8:45 am] BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Governments of the United States of America and Republic of Korea Concerning the Peaceful Uses of Atomic Energy.

The subsequent arrangements to be carried out under the above mentioned agreement involve contractual arrangements under which DOE will consent to the assignment of two uranium enrichment services contracts with two U.S. utilities involving

approximately 3 million separate work units under each contract, and two uranium enrichment services contracts involving approximately 2.9 million separate work units under each contract with a non-U.S. customer to the Korea Electric Company for four Korean nuclear units 7, 8, 9 and 10.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security of the United States.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: June 8, 1979.

Harold D. Bengelsdorf,
Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-18475 Filed 6-11-79; 10:50 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1246-8]

Detroit Lime Co.; Application

In the matter of the applicability of Title 1, Part C of the Clean Air Act (Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for Prevention of Significant Deterioration of Air Quality (PSD), to Detroit Lime Company, Detroit, Michigan.

On August 1, 1978, Detroit Lime Company submitted an application to the United States Environmental Protection Agency (U.S. EPA), Region V office, for an approval to construct a rotary lime kiln and limestone preheater. The application was submitted pursuant to the regulations for PSD.

On November 21, 1978, Detroit Lime Company was notified that its application was complete, and preliminary approval was granted.

On December 12, 1978, U.S. EPA published notice of its decision to grant a preliminary approval to Detroit Lime Company. Several comments were received and a public hearing was requested as a result of the preliminary approval. On February 14, 1979, U.S. EPA conducted the hearing in Detroit, Michigan.

After review and analysis of all materials submitted by Detroit Lime Company, the public record established at the hearing, and written comments,

Detroit Lime Company was notified on April 20, 1979, that U.S. EPA had determined that the proposed new construction in Detroit, Michigan, would be utilizing the best available control technology and that emissions from the facility will not adversely impact air quality, as required by Section 165 of the Act.

This approval to construct does not relieve Detroit Lime Company of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

This determination may now be considered final agency action which is locally applicable under Section 307(b)(1) of the Act and therefore a petition for review may be filed in the U.S. Court of Appeals for the Seventh Circuit by any appropriate party. In accordance with Section 307(b)(1), petitions for review must be filed sixty days from the date of this notice.

John McGuire,

Regional Administrator, Region V.

United States Environmental Protection Agency.

In the matter of Detroit Lime Company, Detroit, Michigan; Proceeding pursuant to the Clean Air Act, as amended; Approval to Construct EPA-5-79-A-13.

Authority

The approval to construct is issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.* (The Act), and the federal regulations promulgated thereunder at 40 CFR 52.21 for the Prevention of Significant Deterioration of Air Quality (PSD).

Findings

1. The Detroit Lime Company (Detroit Lime) proposes to construct a 1,000 tons per day rotary lime kiln and limestone preheater in Detroit, Michigan at 125 South Dix Road.

2. The section of Detroit in which Detroit Lime will construct is a Class II area as determined pursuant to the Act and has been designated a non-attainment area for total suspended particulate matter, and an attainment area for sulfur dioxide by the State of Michigan pursuant to Section 107 of the Act.

3. The proposed rotary lime kiln and preheater are subject to the requirements of 40 CFR 52.21 and the applicable sections of the Act. The proposed source is not subject to the Interpretive Ruling (41 F.R. 55524, December 21, 1976), because its allowable emission rate for particulate matter is less than 100 tons per year, and because it will meet all applicable emission standards. Therefore the proposed source is subject to Tier II PSD review for total suspended particulates and sulfur dioxide.

4. Detroit Lime's PSD application was determined to be complete and preliminarily approved on November 21, 1978. On December 12, 1978, public notice appeared in the *Detroit Free Press*. A public hearing was requested and one was held on February 14, 1979, at the Campbell Branch of the Detroit Public Library at 6825 W. Fort in Detroit. The public comment period was extended to February 21, 1979.

5. After review and analysis of all material submitted by Detroit Lime, U.S. EPA has determined that emissions from the construction and operation of the proposed rotary lime kiln and preheater will not violate the Air quality increments applicable in the area where the source will be located, or will it violate the air quality increments applicable in any other area.

Detroit Lime's rotary lime kiln will meet an emission limit at least as restrictive as the new source performance standard for lime manufacturing plants (40 CFR Part 60).

Conditions

Particulate emissions from the baghouse stack shall be limited to 15 lbs. per ton of limestone feed.

Sulfur dioxide emissions from the baghouse stack shall be limited 0.25 lbs. per ton of actual process weight input. Process weight defined as the weight of the total solid materials input into the production process.

Prior to operation, the following fugitive particulate emission control measures shall be implemented:

(a) A negative pressure shall be maintained within the new firing building hood.

(b) The new limestone feed conveyor shall be enclosed with a 180° enclosure over the top of the conveyor. The new lime takeaway belt shall be enclosed with a 360° enclosure.

(c) All normally used roadways and work areas on Detroit Lime's property shall be hard surfaced and maintained in a dust free manner by periodic cleaning with an appropriately controlled vacuum pick-up system.

(d) The surfaces of the coal piles shall be sprayed with a surfactant to minimize fugitive dust.

(e) Storage of waste dust and coal fines shall be enclosed.

(f) A negative pressure shall be maintained within the lime storage silo building. The building shall have automatic door closer devices, and the conveyor room atop the silos shall be ventilated to a baghouse collector.

(g) A negative pressure shall be maintained in the head house building. All dust pick-up points presently vented to a baghouse shall be repaired and maintained for the life of the plant.

(h) The shipping house screen discharge belt (transfer belt) shall be enclosed and ventilated to a baghouse.

(i) The inlet air ports of the existing rotary kiln preheater shall be partially closed so as to increase indraft velocity and reduce accumulation of wastes and fines. Cleanout chutes emptying into collection containers

shall be installed so as to control potential fugitive emissions from cleanout of the preheater.

(j) From the existing rotary kiln baghouse: (1) the discharge from the ventilating fan for the area under the baghouse hoppers shall be controlled or eliminated.

(2) The bottom of the bucket elevator for conveying collected dust shall be enclosed.

(3) A dust-free loading device for truck loading shall be maintained at all times.

(k) Automatic door closers shall be installed and the building maintained so fugitive emissions are not emitted from the pebble lime briquette building.

(l) The following conveyors shall be completely enclosed (360°) and transfer points shall be ventilated to the baghouse collection system:

(1) Belts Nos. 11 and 12 from the existing rotary kiln to the surge tank and to the head house.

(2) The pan (apron) conveyor from the vertical kiln to the head house.

(3) The shuttle conveyor at the loading station.

(4) Shipping belt No. 4 (head house to shipping house) for transporting product.

(m) The handling and disposal from the existing waste dust shed shall be revised to minimize dust from the loading operation.

The control measures stated in conditions 7-9 above represent emissions limitations at least as stringent as those required by the application of Best Available Control Technology [40 CFR 52.21(d)(ii)].

10. (a) The new rotary lime kiln shall be limited to a maximum daily production rate in accordance with the schedule in Attachment A and shall not exceed 1128 tons per day maximum production rate.

(b) The existing vertical kiln shall be operated in conjunction with the new rotary

kiln in accordance with the schedule in Attachment A.

(c) The company shall maintain appropriate operating logs for verifying the above production rate data. Such logs shall be sent to the Wayne County Air Pollution Control Board on a yearly basis and shall be made available for on-site examination at any time upon request by the Wayne County Air Pollution Control Board or the U.S. EPA, Region V.

Condition 10 is required in order to ensure that Detroit Lime operates the rotary lime kiln and limestone preheater in accordance with the descriptions presented in their application for approval to construct.

Approval

11. Approval to construct a rotary lime kiln and limestone preheater is hereby granted to the Detroit Lime Company subject to the conditions expressed herein and consistent with the materials and data included in the application filed by this Company. Any departure from the conditions of this approval or the terms expressed in Detroit Lime's application must receive the prior written authorization of U.S. EPA.

12. This approval to construct does not relieve Detroit Lime of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other State and Federal requirements.

13. A copy of this approval has been forwarded to the Campbell Branch of the Detroit Public Library, 6825 W. Fort, Detroit, Michigan 48209.

Dated: April 20, 1979.

John McGuire,
Regional Administrator.

Production Limitation Schedule—Attachment A

Proposed new kiln			Existing vertical kiln			Combined TSP		Remarks
Tons per day	TPS per day (#)	TSP per year tons	Tons per day	TSP per day (#)	TSP per year tons	Per day (#)	Per year tons	
0	0	0	782	720	86.42	720	62.42	Vertical kiln operating for 240 days.
1,000	285	44.21	600	420	42.21	705	86.42	Vertical kiln operating for 201 days—rotary kiln operating efficiency=85 pct.
1,050	299.25	46.42	584	398	40.00	697.25	86.42	Vertical kiln operating for 201 days—rotary kiln operating efficiency=85 pct.
1,100	313.5	48.63	565	376	37.79	698.5	86.42	Vertical kiln operating for 201 days—rotary kiln operating efficiency=85 pct.
1,128*	321.48	49.9	558	363.4	36.52	684.88	86.42	Vertical kiln operating for 201 days—rotary kiln operating efficiency=85 pct.

*Maximum production.

[FR Doc. 79-18437 Filed 6-12-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1246-5; PP 9G2182 & 9G2183/T201A]

Pesticide Programs; Establishment of Temporary Exemptions From the Requirement of a Tolerance; Correction

In FR Doc. 79-13523 appearing at page

25506 in the issue of May 1, 1979, the term "tobacco bollworm" in the penultimate lines of the second and third paragraphs is corrected by changing the term to read only "bollworm."

[Section 408(j) of the Federal Food, Drug, and Cosmetic Act 21 U.S.C. 346a(j)]

Dated: June 6, 1979.

Douglas D. Campit,
Director, Registration Division.

[FR Doc. 79-18440 Filed 6-12-79; 8:45 am]

BILLING CODE 5560-01-M

[FRL 1246-2; OPP-50428]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 8730-EUP-7. Herculite Products, Inc., New York, New York 10010. This experimental use permit allows the use of 14.53 pounds of the insecticide n-tetradecyl formate on forested areas and wooded residential areas to evaluate control of gypsy moths. A total of 505 acres is involved; the program is authorized only in the States of Maryland, Massachusetts, and Wisconsin. The experimental use permit is effective from April 3, 1979 to April 3, 1980. (PM-17, Room: E-229, Telephone: 202/426-9425)

No. 42646-EUP-1. University of Idaho, Moscow, Idaho 83843. This experimental use permit allows the use of 0.10 pound of the rodenticide strychnine alkaloid on forest plantations to evaluate control of pocket gophers. A total of 18 acres is involved; the program is authorized only in the State of Idaho. The experimental use permit is effective from March 22, 1979 to October 1, 1981. (PM-16, Room: E-229, Telephone: 202/755-9315)

No. 1016-50. Union Carbide Corp., Arlington, Virginia 22202. This experimental use permit allows the use of 12,420 pounds of the insecticide carbaryl on alfalfa, corn (field and sweet), cotton, forests, pastures, peanuts, rangeland, rice, and sorghum to evaluate control of various insect pests. A total of 2,785 acres is involved; the program is authorized only in the States of Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, New York, Oklahoma, Pennsylvania, Texas, Utah, Wisconsin, and Wyoming. The experimental use permit is effective from May 1, 1979 to May 1, 1980. Permanent tolerances for residues of the active ingredient in or on alfalfa, corn (field and sweet), cotton, peanuts, rice, and sorghum have been established (40 CFR 180.169). (PM-12, Room: E-229, Telephone: 202/426-9425)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs EPA, 401 M Street, S.W., Washington,

D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

[Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; & U.S.C. 136)]

Dated: June 4, 1979.

Douglas D. Campit,
Director, Registration Division.

[FR Doc. 79-18436 Filed 6-12-79; 8:45 am]

BILLING CODE 4450-01-M

[FRL 1246-3; OPP-50430]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 284-EUP-55. Union Carbide Co., Inc., Ambler, Pennsylvania 19002. This experimental use permit allows the use of 17,200 pounds of the plant regulator ethephon on cotton to evaluate its effectiveness for accelerating the opening of mature cotton bolls and preconditioning cotton for defoliation. A total of 8,600 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. This program was authorized in a previous experimental use program which was effective from July 15, 1978 to July 14, 1979. It is now authorized until June 15, 1980. A temporary tolerance for residues of the active ingredient in or on cottonseed has been established. (PM-25, Room: E-301, Telephone: 202/755-2196)

No. 7452-EUP-6. The Freers Co., Muscatine, Iowa 52761. This experimental use permit allows the use of 22 pounds of the fungicide thiabendazole on oak trees to evaluate control of oak wilt. A total of 225 oak trees is involved; the program is authorized only in the State of Iowa. The experimental use permit is effective from May 7, 1979 to May 7, 1981. (PM-21, Room: E-305, Telephone: 202/755-2562)

No. 38568-EUP-1. University of Maine, Orono, Maine 04469. This experimental use permit allows the use of 9,600 billion international units of the insecticide *Bacillus thuringiensis* Berliner on fir-spruce forest land to evaluate control of Eastern spruce budworm. A total of 1,200 acres is involved;

the program is authorized only in the State of Maine. The experimental use permit is effective from May 10, 1979 to June 30, 1979. (PM-17, Room: E-229, Telephone: 202/426-9425)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

[Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)]

Dated: June 4, 1979.

Douglas D. Campit,
Director, Registration Division.

[FR Doc. 79-18438 Filed 6-12-79; 8:45 am]

BILLING CODE 5560-01-M

[FRL 1246-4; OPP-50380B]

Amendment to Experimental Use Permit Issued to Mobil Chemical Co.

On Monday, September 25, 1978 (43 FR 43380), information appeared pertaining to the issuance of an experimental use permit, No. 2224-EUP-10, to Mobil Chemical Company. The permit was amended on Friday, April 13, 1979 (44 FR 22175). At the request of the company, that permit has been further amended. The experimental use permit now allows the use of 2,198 pounds of the herbicide bifenox on corn and grain sorghum to evaluate control of various weeds. A total of 185 acres is involved; the program is authorized only in the States of Colorado, Kansas, Nebraska, Oklahoma and Texas. The experimental use permit is effective from March 22, 1979 to March 22, 1980. Permanent tolerances for residues of the active ingredient in or on corn and grain sorghum have been established (40 FR 180.351). (PM-25, Room: E-359, Telephone: 202/755-2196)

[Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)]

Dated: June 6, 1979.

Douglas D. Campt,
Director, Registration Division.

[FR Doc. 79-18439 Filed 6-12-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 79-61]

Rene Lopez and David Romano d/b/a United Dispatch Services— Independent Ocean Freight Forwarder License No. 1381; Order of Investigation and Hearing

Rene Lopez and David Romano d/b/a United Dispatch Services, located at 1349 N.W. 8th Avenue, Miami, Florida 33126, is an independent ocean freight forwarder operating under FMC License No. 1381, issued on March 22, 1972, pursuant to section 44(b) of the Shipping Act, 1916, and FMC General Order 4, 46 CFR Part 510.

An investigation of the licensee conducted by the Commission's Gulf District Office in October 1978 indicated that Rene Lopez and David Romano d/b/a United Dispatch Services entered into an arrangement which allowed a nonlicensed forwarder, Foreign Freight Forwarders, Inc. (FFF) to use United Dispatch Services' name and FMC license number in the performance of ocean freight forwarding services. Under this arrangement, United Dispatch Services received \$2,360.47 in compensation from ocean carriers involving at least 85 shipments between June 2, 1978 and September 9, 1978, by certifying to ocean carriers that United Dispatch Services was entitled to compensation on shipments handled by FFF for which United Dispatch Services did not provide any forwarding services.

Based on the information stated above, United Dispatch Services permitted a nonlicensed forwarder to use the licensee's name and FMC license number in apparent violation of section 510.23(a) ¹ and certified to ocean carriers that it had performed the forwarding services necessary to receive ocean carrier compensation and accepted ocean carrier compensation on these shipments for which it did not provide freight forwarding services in apparent violation of section 44(e), Shipping Act, 1916, and § 510.24(e) of General Order 4.²

Section 44(d) of the Shipping Act provides that a license may be revoked, suspended or modified after notice and hearing for failure to comply with any lawful rules, regulations or orders of the Commission. Section 510.9 of General Order 4 provides that a license may be revoked or suspended after notice and hearing for such conduct as the Commission shall find renders the licensee unfit or unable to carry on the business of forwarding.

Therefore, it is ordered, Pursuant to sections 22 and 44 of the Shipping Act, 1916 (46 U.S.C. 821 and 841(b)) and sections 510.9, 510.23(a) and 510.24(e) of the Commission's General Order 4 (46 CFR 510.9, 510.23(a) and 510.24(e)) that a proceeding be instituted to determine:

1. Whether Rene Lopez and David Romano d/b/a United Dispatch Services has violated section 510.23(a) of General Order 4 by permitting its name and license number to be used by a person not employed by it for the performance of ocean freight forwarding services.

2. Whether Rene Lopez and David Romano d/b/a United Dispatch Services has violated section 44(e) of the Shipping Act, 1916, and section 510.24(e) of General Order 4 by falsely certifying to ocean carriers that it had performed forwarding services necessary to receive ocean carrier compensation and accepting ocean carrier compensation on such shipments for which it did not provide freight forwarding services; and

3. Whether Rene Lopez and David Romano d/b/a United Dispatch Services' independent ocean freight forwarder license should be revoked or suspended pursuant to section 44(d) of the Shipping Act, 1916, and § 510.9 of General Order 4 for failure to comply with any lawful rules, regulations or orders of the Commission and for conduct which renders the licensee unfit to carry on the business of forwarding.

It is further ordered, That Rene Lopez and David Romano d/b/a United Dispatch Services to named Respondent in this proceeding;

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the proceeding shall initially be limited to the submission of affidavits of fact and memoranda of law;

It is further ordered, That the following schedule be adhered to:

in writing to the ocean common carrier that he is licensed by the Federal Maritime Commission and that he had solicited and secured the cargo for the ship or booked or otherwise arranged for space for such cargo and performed two of five enumerated services.

July 13, 1979—Opening memorandum of law and affidavits of fact from the Commission's Bureau of Hearing Counsel;

June 22, 1979—Petitions to Intervene;

August 10, 1979—Memoranda of law and affidavits of fact from Respondent and any intervenors;

It is further ordered, That within two weeks following the submission of the affidavits of fact and memoranda of law of Respondent and intervenors, the parties will submit to the Administrative Law Judge written statements identifying any unresolved issues and specifying the type of procedure best suited to resolve them. After consideration of these

recommendations, the Administrative Law Judge will issue an appropriate order establishing the procedure for their resolution. However, any additional procedure shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a showing that there are issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That any persons other than Respondent and Hearing Counsel who desire to become parties to this proceeding and to participate therein shall file a Petition to Intervene pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, That a notice of this Order be published in the Federal Register and that a copy thereof be served upon Respondent and Hearing Counsel;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-18430 Filed 6-12-79; 8:45 am]

BILLING CODE 6730-01-M

¹ Section 510.23(a) of General Order 4 provides that: "No licensee shall permit his license or name to be used by any person not employed by him for the performance of any freight forwarding service."

² Section 44(e) of the Shipping Act, 1916, and section 510.24(e) of General Order 4 provide that before a licensee may receive compensation from the ocean common carrier, the licensee shall certify

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate [Casualty]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Glacier Bay Lodge, Inc., Suite 312, Park Place Building, Seattle, Washington 98101.

Dated: June 7, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-18431 Filed 6-12-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

American National Sidney Corp.; Formation of Bank Holding Company

American National Sidney Corp., Sidney, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act [12 U.S.C. 1842(a)(1)] to become a bank holding company by acquiring 95 per cent or more of the voting shares of the American National Bank of Sidney, Sidney, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act [12 U.S.C. 1842(c)].

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than July 6, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 6, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-18451 Filed 6-12-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act [12 U.S.C. 1843(c)(8)] and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 5, 1979.

A. Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045:

Schroders Incorporated, New York, New York, and Schroders Limited, Schroders International Limited, and Schroders International Holdings Limited, London, England (investment advisory activities; national, international): to offer portfolio investment advice to United States clients who wish to invest in foreign securities, through an office in London, England, of the Schroders Naess and Thomas division of Schroders Incorporated.

B. Federal Reserve Bank of Chicago, 230 South LaSalle Street, Chicago, Illinois 60690:

Harris Bankcorp, Inc., Chicago, Illinois (trust company and investment advisory

activities; southwestern United States): to engage, through its subsidiary, Harris Trust Company of Arizona, in activities that may be performed or carried on by a trust company (including activities of a fiduciary, investment advisory, agency, or custodian nature). These activities would be conducted from an office in Scottsdale, Arizona, serving the southwestern United States.

C. Other Federal Reserve Banks:
None.

Board of Governors of the Federal Reserve System, June 5, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-18432 Filed 6-12-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act [12 U.S.C. 1843(c)(8)] and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 6, 1979.

A. Federal Reserve Bank of Kansas City, 925 Grand Avenue, Kansas City, Missouri 64198:

Colorado National Bankshares, Inc., Denver, Colorado (industrial bank and insurance activities; Colorado): to operate, through it subsidiary East Industrial Bank, as an industrial bank, including the acceptance of time and savings deposits and the extension of consumer credit, and to engage in the sale of life and accident and health insurance directly related to its extensions of credit. These activities would be conducted from an office in Denver, Colorado, and the geographic area to be served is approximated by the southeast portion of Denver, Colorado.

C. Other Federal Reserve Banks:
None.

Board of Governors of the Federal Reserve System, June 5, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-18453 Filed 6-12-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or

at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, unless otherwise noted, received by the appropriate Federal Reserve Bank not later than July 5, 1979.

A. Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045:

Security New York State Corporation, Rochester, New York (data processing activities; New York): to provide, through a subsidiary, Griffin Computer Services, Inc., information processing services to meet the needs of the applicant and others. These activities would be conducted from offices in Rochester, Auburn, Ithaca, Seneca Falls, and Olean, New York, serving western New York.

B. Federal Reserve Bank of Philadelphia, 100 North 6th Street, Philadelphia, Pennsylvania 19105:

Philadelphia National Corporation, Philadelphia, Pennsylvania (insurance activities; Pennsylvania): to engage, through a subsidiary, Colonial Mortgage Consumer Discount Company, in selling life and accident and health insurance directly related to its personal installment loans secured by mortgages on real estate. These activities would be conducted from an office in Melrose Park, Pennsylvania, serving Pennsylvania.

C. Federal Reserve Bank of Cleveland, 1455 East Sixth Street, Cleveland, Ohio 44101:

Pittsburgh National Corporation, Pittsburgh, Pennsylvania (mortgage banking activities; Georgia): to engage, through a subsidiary, The Kissell Company, in mortgage banking activities, including making or acquiring and servicing loans and other extensions of credit. These activities would be conducted from an office in the Savannah, Georgia, metropolitan area, serving Savannah.

D. Federal Reserve Bank of Atlanta, 104 Marietta Street, N.W., Atlanta, Georgia 30303:

First Amtenn Corporation, Nashville, Tennessee (finance and insurance activities; Tennessee): to engage, through subsidiaries, Atlantic Discount Company, Inc., and Atlantic Consumer Services of Tennessee, Inc., in making or acquiring loans and other extensions of credit such as would be made by a finance company, including secured and unsecured loans to individuals, discounting installment sales contracts, and secured commercial financing, such as dealer floor-plan financing and lease financing; and acting as agent or broker

in selling life, accident and health, and property damage insurance directly related to its extensions of credit. These activities would be conducted from an office in Nashville, Tennessee, serving southern and western metropolitan Nashville, Davidson County, Tennessee.

E. Federal Reserve Bank of Kansas City, 925 Grand Avenue, Kansas City, Missouri 64198:

Torrington National Company, Torrington, Wyoming (insurance activities; Nebraska, Wyoming): to engage in the sale of life and accident and health insurance directly related to extensions of credit by First National Bank, Torrington, Wyoming. These activities would be conducted from the bank's premises, and the geographic areas to be served are Sioux and Scotts Bluff Counties, Nebraska, and Goshen, Niobrara, and Platte Counties, Wyoming. Comments on this application must be received by the Federal Reserve Bank of Kansas City by July 3, 1979.

F. Federal Reserve Bank of San Francisco, 400 Sansome Street, San Francisco, California 94120:

Wells Fargo & Company, San Francisco, California (finance, leasing, and insurance activities; national): to engage, through a subsidiary, Wells Fargo Credit Corporation, in making or acquiring loans and other extensions of credit, including acquiring consumer installment loans originated by others and making or acquiring commercial loans secured by a borrower's or a guarantor's assets; servicing loans for the account of others; making full payout leases of personal property to the extent permitted by the Board's Regulation Y; and acting as agent for life and accident and health insurance directly related to its extensions of credit. These services will be offered to finance companies, banks and other lending institutions, manufacturers, distributors and other corporations or businesses, and individuals. These activities will be conducted from offices in Tucson, Arizona and Tulsa and Oklahoma City, Oklahoma, and the area to be served is national. Comments on this application must be received by the Federal Reserve Bank of San Francisco by July 3, 1979.

G. Other Federal Reserve Banks:
None.

Board of Governors of the Federal Reserve System, June 7, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-18454 Filed 6-12-79; 8:45 am]

BILLING CODE 6210-01-M

CleveTrust Corp.; Acquisition of Bank

CleveTrust Corporation, Cleveland, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Cincinnati Trust Company, Cincinnati, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 5, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-18455 Filed 6-12-79; 8:45 am]

BILLING CODE 6210-01-M

Old Kent Financial Corp.; Acquisition of Bank

Old Kent Financial Corporation, Grand Rapids, Michigan, has applied for the Board's approval under Section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Peoples Banking Corporation, Bay City, Michigan. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 6, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 6, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-18456 Filed 6-12-79; 8:45 am]

BILLING CODE 6210-01-M

ONB Bancorp, Inc.; Formation of Bank Holding Company

ONB Bancorp, Inc., Chickasha, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Oklahoma National Bank and Trust Company, Chickasha, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

ONB Bancorp, Inc., Chickasha, Oklahoma, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to indirectly acquire voting shares of ONB Insurance Agency, Inc., Chickasha, Oklahoma.

Applicant states that the proposed subsidiary would engage in the activities of selling as agent life, accident and health insurance in connection with extensions of credit by Oklahoma National Bank and Trust Company. These activities would be performed from offices of Applicant's subsidiary in Chickasha, Oklahoma, and the geographic areas to be served in Grady County, Oklahoma. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party

commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 2, 1979.

Board of Governors of the Federal Reserve System, June 4, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-18457 Filed 6-12-79; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE**Regulatory Reports Review; Receipt of Report Proposal**

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on June 6, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable, and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before July 2, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Federal Communications Commission

The FCC requests an extension without change clearance of Form P, Annual Report of Miscellaneous Common Carriers. Form P is an annual report for obtaining operating and financial data from miscellaneous and specialized common carriers. Form P is required by Sections 219(b), 303 (j), (r), and 308(b) of the Communications Act

of 1934, as amended, and Sections 1.785, 21.300, and 43.21 of the FCC's Rules and Regulations. The data collected by Form P is used for analyses of required applications for construction permits and licenses, reviewing operating data and revenues, and for compilation of periodical statistical reports. The FCC estimates approximately 100 respondents will complete Form P and that reporting burden will average 15 hours per response.

John M. Lovelady,
Assistant Director, Regulatory Reports
Review.

[FR Doc. 79-18349 Filed 6-12-79; 8:45 am]
BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

Federal Property Management Regulations; Temporary Regulation F-486

Subject: Delegation of authority.

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in a telecommunications proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Illinois Commerce Commission, Docket No. 79-0143, involving the application of the Illinois Bell Telephone Company for an increase in intrastate telecommunication service rates for private line and mileage services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: May 25, 1979.

Paul E. Goulding,
Acting Administrator of General Services.
[FR Doc. 79-18294 Filed 6-12-79; 8:45 am]
BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Bureau of Occupational and Adult Education

AGENCY: Office of Education, HEW.

ACTION: Notice of request for suggestions regarding implementation of eight Bureau of Occupational and Adult Education (BOAE) priorities for vocational education.

SUMMARY: In accordance with his national leadership role, the Commissioner of Education, in conjunction with the Coordinating Committee on Research in Vocational Education, is requesting comments relating to eight designated priorities for vocational education. Specific comments are requested for: 1) suggested leadership activities and initiatives that can be implemented nationwide; 2) possible research ideas; and 3) documentation of need in these areas.

DATE: Comments must be received on or before August 1, 1979.

ADDRESS: Comments should be addressed to Dr. Daniel B. Dunham, Deputy Commissioner, Bureau of Occupational and Adult Education, Office of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

FOR INFORMATION CONTACT: Sharon Berard, Planning Office, (202) 245-8176.

SUPPLEMENTARY INFORMATION: The Bureau of Occupational and Adult Education (BOAE) is in the process of developing and implementing a long-range master plan based upon the mission of the Bureau. This master plan identifies eight specific priorities for increased Federal involvement in vocational education programs. It is the development of strategies to impact on these priorities that BOAE and the Coordinating Committee for Research in Vocational Education are seeking field input. Suggested ideas are requested for applied research, demonstration, curriculum development, and personnel development projects, as well as for general leadership activities for BOAE and the member agencies of the Coordinating Committee, which are the Office of Career Education and the Bureau of Occupational and Adult

Education of the U.S. Office of Education, the Fund for the Improvement of Postsecondary Education, and the National Institute of Education. Please reference the eight priority areas for any comment, issue, need or suggested area of study.

Priorities

1. *The Education-Work Connection.*— Vocational education must increase its efforts to serve as deliverer of education for work. The transition from education to work is interwoven with critical State and national initiatives for reducing youth employment, for job placement, and most importantly, for job development. A major emphasis must be the elimination of the barriers between school and work and the establishment of linkages among vocational education, CETA prime sponsors, and other Federal and State education programs.

2. *Urban/Rural Youth Programs.*— Unemployment rates for youth are extremely high, even at a time when the total unemployment rate has dropped. Recognizing that urban and rural areas do not have identical problems, youth in these areas share the common problem of high unemployment. Since the unemployment rate for youth who have completed vocational education is generally lower than for those who have not, approaches and strategies must be developed to increase the participation rates of both urban and rural youth in vocational education programs.

3. *Program Availability and Accessibility-Emphasis: Adults.*— Currently, there are barriers existing which limit the accessibility to vocational education for those who need or desire it—barriers in terms of facilities, equipment, out-reach, and support services. For example, programs are often restricted to the schoolhouse when many could be successfully operated at the workplace. In addition, alternatives must be increased for encouraging adults to participate in upgrading and retraining courses. Federal, State, and local barriers limiting access to programs must be identified and eliminated.

4. *Planning, Accountability and Data.*— Planning, accountability, and data systems must be improved, expanded, and extended to all aspects of the vocational education enterprise. Improvements in this area have occurred and are continuing through the efforts of the National Occupational Information Coordinating Committee (NOICC) and the planned implementation of the Vocational Education Data System (VEDS). However, these efforts must be

expanded. Good data, good planning, and good evaluation are necessary for managing resources and producing better results.

5. *Guidance for Vocations.*—The capacity in vocational education for providing vocational development guidance and counseling programs and services must be enlarged. Having good up-to-date information about careers and occupations is essential to achieving responsiveness in the guidance system. Young people and adults must be assessed to determine individual interest, aptitude, and ability, and occupational choices should be based upon real work knowledge. Support must be provided to enable change in careers at all stages of life.

6. *Vocational Equity.*—This is a time of transition in the roles of both men and women. Issues surface daily surrounding problems of displaced homemakers and of men and women desiring to enter non-traditional occupations. Sex role biases and stereotypes must be removed if vocational education is to be responsive to the desires and needs of all individuals. Pub. L. 94-482 lays the groundwork for the vocational education effort to achieve equity, but it is just a beginning. Other issues which need emphasis include age, race, and national origin, while at the same time, greater effort must be given to identifying and removing all forms of bias, stereotyping, and discrimination.

7. *Special Needs: The Handicapped and Disadvantaged.*—Meeting the special needs of those persons who cannot succeed in a regular program of vocational education without special assistance continues to be a pressing priority for the Federal effort. A better job must be done of identifying those with special needs and then meeting those needs. The Education of all Handicapped Children Act furthers this effort for the handicapped, but the needs of the disadvantaged, including the incarcerated have yet to be addressed adequately.

8. *Basic Skills.*—The separatist concept of the "academic" versus the "vocational" delivery system within our public school setting is no longer useful. Basic educational skills are essential to all persons, and vocational education must complement basic skills/remedial programs if persons are to succeed in vocational education programs. Improving the proficiency in reading, writing, and speaking of persons with limited English-speaking ability is an essential aspect of basic skills development. Both academic and vocational programs should complement

and further one another in producing persons who are prepared to function responsibly in a working world.

Invitation to Comment. Persons or organizations wishing to provide comments and suggestions on these eight priorities are invited to send the comments and suggestions in the form of letters, briefs, or memoranda to the Office of Education at the address indicated above. Proposals should not be submitted. If proposals are submitted, they will be returned to the sender without review.

In order to be assured of full consideration, comments must be received on or before the date the comment period ends.

(Catalog of Federal Domestic Assistance Nos. Vocational and Adult Education—13.400, 13.493, 13.494, 13.495, 13.498, 13.499, 13.500, 13.503, 13.558, 13.578, 13.588, 13.587, 13.588)

Dated: June 6, 1979.

Ernest L. Boyer,

U.S. Commissioner of Education.

[FR Doc. 79-18351 Filed 6-12-79; 8:45 am]

BILLING CODE 4110-02-M

Desegregation of Public Education; Closing Date for Transmittal of Applications for Fiscal Year 1979; Desegregation Assistance Centers

Applications are invited to provide sex desegregation assistance in the service area covering the following States: North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Kentucky, and Tennessee.

Authority for this program is contained in section 403 of Title IV of the Civil Rights Act of 1964, as amended (45 U.S.C. 2000c et seq.).

Public agencies (other than State education agencies or school boards) and private, nonprofit organizations are eligible for an award under this program.

The purpose of the award is to provide technical assistance (including training) in the preparation, adoption, and implementation of plans for sex desegregation. This includes assistance in solving educational problems resulting from that desegregation.

The Commissioner of Education is authorized under 45 CFR 180.38(b) to approve the continuation of existing Sex Desegregation Assistance Center awards if the Centers meet the criteria in that section. The Commissioner has used this authority to continue the awards of nine of the ten existing Centers for a period of one year. This notice covers only the one remaining service area, described above.

Closing Date for Transmittal of Applications: Applications for an award must be mailed or hand delivered by July 27, 1979.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.405D, Desegregation Assistance Centers, Washington, D.C. 20202.

The Commissioner of Education prefers a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service as proof of mailing.

Note:—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets S.W., Washington, D.C. The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Available Funds: A total of approximately \$3,350,000 is available for all ten Desegregation assistance centers in fiscal year 1979. At present Center awards range in amount from \$240,557 to \$350,799.

This estimate does not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application Forms: Application forms and program information may be obtained by writing to the Divisions of Technical Assistance, Equal Educational Opportunity Programs, U.S. Office of Education, 400 Maryland Avenue S.W., Washington D.C. 20202.

An application must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package.

Project Period: The new award made under this notice will be for a project beginning no earlier than July 1, 1979, and ending no later than September 30, 1980, but in no case for more than 12 months.

Applicable Regulations: The award made under this notice will be subject to: (a) the Office of Education general provisions regulations (45 CFR Parts 100 and 100a), except to the extent that those regulations are inconsistent with 45 CFR Part 180, and (b) regulations relating to programs under Title IV of the Civil Rights Act of 1964 (45 CFR Part 180).

Further Information: For further information contact Ms. Delia Alpert, Acting Director, Division of Technical Assistance, EEOP, U.S. Office of Education (Room 2181-J, FOB-6) 400 Maryland Avenue S.W., Washington, D.C. 20202. Telephone: (202) 245-8840.

(42 U.S.C. 2000c-2000-5)

(Catalog of Federal Domestic Assistance Number 13.405, Civil Rights Technical Assistance and Training Programs.)

Dated: June 7, 1979.

Ernest L. Boyer,

U.S. Commissioner of Education.

(FR Doc. 18352 Filed 6-12-79; 8:45 am)

BILLING CODE 4110-02-M

Office of Human Development Services

[Program Announcement No. 13612-792]

Administration for Native Americans; Training and Technical Assistance Program

AGENCY: Administration for Native Americans.

SUBJECT: Announcement of availability of grant funds for the Training and Technical Assistance Program.

SUMMARY: The Administration for Native Americans (ANA) announces that applications are being accepted for training and technical assistance (T & TA) program grants under section 804 of the Native Americans Program Act of 1974, Pub. L. 93-644 as amended, by Pub. L. 95-568. Regulations covering this program are published in the Code of Federal Regulations in 45 CFR 1336.

DATES: Closing dates for the receipt of applications are scheduled on a staggered basis, according to grantees' program year end (PYE). The purpose for multiple closing is to enable grantees with differing PYE's to compete for funds under this program announcement and to ensure grantees' adherence to the requirement that the proposed specialized Training and Technical Assistance projects will be integrated with the regular ANA grant applications.

Closing dates follow:

1. November 15, 1979 for PYE 10/1—December 31, 1979.

2. February 15, 1980 for PYE 1/1—March 31, 1980.

3. May 15, 1980 for PYE 4/1—June 30, 1980.

4. August 15, 1980 for PYE 7/1—September 30, 1980.

Program Purpose

The purpose of the ANA supported technical assistance is to strengthen grantees' capabilities in the areas of planning, management, administration, and service delivery. The assistance also focuses on enabling grantees to identify barriers to community organization and to resource mobilization, and to subsequently develop strategies to overcome these barriers.

ANA supported training assists grantees to develop or improve the leadership capabilities of their governing bodies and their community members. These leadership and management capabilities provide the organizational stability necessary for grantees to accomplish socio-economic growth.

Program Goal and Objectives

The goal of the program under this announcement is to provide grantees selected through a competitive process the opportunity to directly purchase specialized training and/or technical assistance which will result in the achievement of a quantifiable objective. The proposed project must be integrated with and complementary to the grantees' proposed regular ANA grant application and must support successful, measureable achievement of the goals and objectives stated in the grant renewal proposals. Applicants should address needs which are not otherwise addressed through training and technical assistance provided under ANA contract.

Proposed training and technical assistance projects must be clearly correlated with the grantees' organizational goals and objectives. Applicants must define, in quantifiable terms, the manner in which the proposed training and technical assistance will impact on achievement of their goals and objectives.

Proposed projects may address one or more of the activities listed below or other activities within the scope of the applicants' renewal application under social and/or economic development;

1. To assist applicants to influence Federal, State, and local decision-making processes which affect or have the potential to affect the Native American community.

This activity would be designed to:

(a) Achieve Federal recognition where necessary;

(b) Identify individuals and agencies at Federal, State, and local levels which have primary control over allocation of services and resources;

(c) Increase Native American participation on boards, commissions and/or committees involved in the planning processes of civic, political, social and economic agencies or organizations.

2. To assist applicants to promote changes in the method of providing local service delivery to make it more responsive to the Native American population's needs and environment.

This activity would be designed to:

(a) Increase coordination of the various social and economic efforts of public and private agencies responsible for providing services to Native Americans.

This may include initiating requests for joint funding, joint monitoring, etc.

(b) Improve knowledge of and sensitivity to Native American cultural factors on the part of Federal, State and local officials and service providers.

3. To assist applicants to mobilize Native and non-Native American resources of volunteer time and monetary donations.

This activity would be designed to: (a) Increase the amount of free assistance given directly to grantee clientele from community lawyers, doctors, dentists, etc.;

(b) Increase the amount of free time contributed to grantee organizations from carpenters, painters, plumbers, van drivers, etc.;

(c) Increase the commitment of free or reduced rate courses for Board, staff or clientele training given by a local educational institution;

(d) Increase contributions to the unrestricted fund as well as contributions of food, clothing, items for basic house repairs, etc.

Training and technical assistance may be directed to leadership development in decision-making skills, public administration, negotiation skills, fundraising techniques, public speaking and public relations, etc.

Note.—Applications for consultant services for proposal writing will not be considered for funding.

In addition, costs will not be allowed for the hiring of staff, nor for any overhead or indirect costs.

Applicants are required to include as part of the application, a one (1) page executive summary highlighting the problem areas to be addressed, proposed objectives, summary of

proposed activities, anticipated accomplishments, and overall cost data.

Applications must include a section on how the grantee intends to monitor and evaluate the implementation and progress of the proposed training and technical assistance project. Costs required for such monitoring should be specified as should the time periods during which monitoring will occur.

Recipients of grants under this Program Announcement will be required to comply with DHEW financial reporting and program progress reporting regulations published in 45 CFR 74. The information contained in these quarterly reports should clearly identify cost and effectiveness of this project.

The new project funds are intended to supplement and not replace other ANA training and technical assistance resources available to the grantees. Applicants are required to identify in the application all available training and technical assistance resources, including those from ANA and other federal, state, community and private sources. All applicants must include in their proposals, plans specifying the utilization and coordination of these resources and detailing ways in which the grantee organizations will insure training and technical assistance project linkages. In addition, assurance must be provided that the proposed project will not duplicate training and technical assistance services supported by another federal, state, or local agency.

Applications shall include written statements that contracts awarded under grant will specifically state the terms and conditions, work to be performed, time frames for consultant contracts.

Budget Period

These one-time grants will be for a period of twelve months, and consistent with the grantees' regular ANA budget period.

Eligible Applicants

Only organizations which are current ANA grant recipients are eligible to apply for funding under this Program Announcement. ANA grantees funded for research projects are not eligible.

Available Funds

The Administration for Native Americans expects to award approximately \$145,000 in fiscal year 1980 for new projects under this training and technical assistance program. It is expected that between ten (10) and fifteen (15) grants will be awarded pursuant to this announcement. Up to

four (4) grants are expected to be awarded during each quarter of the federal government fiscal year.

Grantee Share of Project

Grantees will provide 20% of the approved cost of the project. Grantees' contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services. The contribution must be project related and must be allowable under the Department's applicable regulations in 45 CFR Part 74, Subparts Q and G.

Under certain circumstances, some or all of the non-Federal share of the project may be waived by ANA. Further explanation is contained in section 1336.52 of ANA's Regulations which will be provided in the Application Kit.

The Application Process

Availability of application forms. In order to be considered for grants under the Training and Technical Assistance Program, an application must be submitted on the forms supplied in the manner prescribed by ANA. An application kit containing the necessary forms may be obtained from:

Administration for Native Americans, Room 357-G, Hubert H. Humphrey Bldg., 200 Independence Ave. S.W., Washington, D.C. 20201. Attention: 13612-792 (202-426-3940). Attention: Ms. Janice Phalen.

For clarification or further explanation of the program announcement, call Ms. Geraldine Farrell (202-426-4055).

Application submission. One signed original and six copies of the grant application, including all attachments, must be submitted to the address specified in the application kit.

The application shall be executed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including Native American Programs Rules and Regulations.

A-95 notification process. In compliance with the Department of Health, Education and Welfare's implementation of the Office of Management and Budget Circular No. A-95 Revised (interim procedures at 41 FR 3160, July 29, 1976), applicants, with the exception of Federally recognized tribes, who request grant support must, prior to submission of an application, notify both the State and Area-wide Clearinghouses of the intent to apply for Federal assistance. Some State and Area-wide Clearinghouses provide their own forms for the notification of intent and others use the facesheet (Form 424) of the application form. Applicants

should contact the appropriate Clearinghouses (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

Prospective grantees should contact their local and state A-95 Clearinghouses *immediately* to initiate pre-notification procedures. So doing will greatly reduce the time required to comply with OMB circular A-95.

Application consideration. The Commissioner for the Administration for Native Americans (in conjunction with the Regional Administrator for urban grantees) determines the final action to be taken with respect to each grant application for this program. Applications which do not conform to this announcement or are not complete will not be accepted for review and applicants will be notified in writing accordingly. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Native Americans. The results of the review assist the Commissioner (and Regional Administrator where appropriate) in the consideration of competing applications. The Commissioner's consideration also takes into account the comments of the A-95 Clearinghouse, the ANA staff, and other interested parties.

After the Commissioner (and Regional Administrator where appropriate) has reached a decision either to disapprove or to fund a competing grant application, unsuccessful applicants are notified of the decision in writing. Successful applicants are notified through the issuance of a Notice of Grant Awarded.

The Commissioner (or Regional Administrator) makes grants awards consistent with the purpose of the Act, the regulations, and the program announcement within the limits of funds available. The official grant award document is the Notice of Grant Awarded (NGA). The NGA sets forth in writing to the grantee the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the amount of grantee participation. The NGA also specifies the total project period for which support is contemplated.

Criteria for Review and Evaluation of Applications

Competing grant applications will be reviewed and evaluated against the following criteria:

1. Program Design (0-50 points). The quality of the program design as indicated by such factors as:

- (a) Well defined problems to be addressed and demonstrated need for proposed project (10 points).
- (b) Integration of proposed project with the applicants' regular ANA project goals and objectives (15 points).
- (c) Specified steps for coordination of all ANA and non-ANA supported training and technical assistance resources (15 points).
- (d) Plan for project implementation is adequate for successful task accomplishment and productive results (5 points).
- (e) Proposed objectives are sharply defined, clearly stated, capable of being attained, and capable of being measured (5 points).

(f) The projected activity plan or milestones clearly outline the necessary steps to be taken in order to achieve the objectives (5 points).

(g) The proposed activities, if well executed, will achieve the project objectives (5 points).

2. Evaluation Design (0-15 points). The evaluation design details how progress toward meeting the proposed objectives will be measured.

3. Management and Organizational Capability (0-15 points). The soundness of the organizational capability as evidenced by such factors as: (a) The grantee's general administration and management capability (5 points). (b) The adequacy of facilities and other resources (5 points). (c) Demonstrated implementation of like projects as exemplified by achievement of objectives, adherence to grant conditions, and the governing body's assumption of responsibility (5 points).

4. Provision for the implementation of Indian Preference (0-10 points).

5. Budget (0-10 points). The budget is given in detail with justifications and explanations; estimated costs are commensurate with the level of effort needed to accomplish project objectives, and the reasonableness of project costs in relation to anticipated results.

Closing Date for Receipt of Applications

The closing dates for receipt of applications under this program announcement are:

- 1. November 15, 1979 for PYE 10/1—December 31, 1979.
- 2. February 15, 1980 for PYE 1/1—March 31, 1980.
- 3. May 15, 1980 for PYE 4/1—June 30, 1980.
- 4. August 15, 190 for PYE 7/1—September 30, 1980.

Hand delivered applications are accepted during normal working hours

of 9 a.m. to 5 p.m. An application will be considered to have arrived by the closing date if: (a) the application is at the HDS Receiving Office on or before the closing date, or (b) the application is postmarked on or before the closing date as evidenced by the U.S. Postal Service postmark on the wrapper or envelope or by an original receipt from the U.S. Postal Service.

Late applications are not accepted, and applicants are notified accordingly.

(Catalog of Federal Domestic Assistance Program No. 13.612, Native American Programs.)

Dated: May 11, 1979.

A. David Lester,
Commissioner, Administration for Native Americans.

Dated: June 5, 1979.

Arabella Martinez,
Assistant Secretary for Human Development Services.

[FR Doc. 79-18179 Filed 6-12-79; 8:45 am]

BILLING CODE 4110-92-M

Administration on Aging Education and Training Programs

AGENCY: Office of Human Development Services, DHEW.

SUBJECT: Announcement of availability of *AoA Education and Training Program Plans and Guidelines, FY 1979*.

SCOPE: *AoA Education and Training Program Plans and Guidelines, FY 1979* contains information describing most career education and training activities administered by the Administration on Aging (AoA) authorized under title IV, parts A and E of the Older Americans Act of 1965, as amended (43 U.S.C. 3131d *et seq.* and 3036) for Fiscal Years 1979, 1980 and 1981. It describes all program competitions planned for this period by AoA's Office of Education and Training (OET), and proposed plans for DHEW regional decentralization of the administration of selected education and training activities currently monitored in Washington, D.C. Activities which are proposed for support by contract include: development of a national manpower policy for personnel in the field of aging, in-service curricula development, conference and technical assistance activities, and recruitment of minorities for career preparation and training in gerontology. Six (6) sets of guidelines for grant, and/or cooperative agreement competitions scheduled for Fiscal Year 1979 and early Fiscal Year 1980 comprise the main body of this document. Each of the competitions described (Gerontology Career Preparation Program, Geriatric

Fellowship Program, Minority Research Associate Program, National Continuing Education Program, and the Long Term Care Gerontology and Aging Policy Study Centers) is announced separately in this issue of the Federal Register.

AVAILABILITY: Copies of *AoA Education and Training Program Plans and Guidelines, FY 1979*, will be sent to all present and former grantees and contractors, major educational institutions, and other non-profit organizations that have been identified or requested placement on a mailing list. Additional copies may be obtained by writing:

Office of Education and Training, AoA/
OHDS/DHEW, Room 4266, HEW North
Bldg., 300 Independence Avenue SW.,
Washington, D.C. 20201. Telephone: (202)
472-4683.

Dated: June 5, 1979.

Robert Benedict,
Commissioner on Aging.

Approved: June 7, 1979.

Arabella Martinez,
Assistant Secretary for Human Development Services.

[FR Doc. 79-18319 Filed 6-12-79; 8:45 am]

BILLING CODE 4110-92-M

[Program Announcement No. 13637-791]

Gerontology Career Preparation Program

AGENCY: Office of Human Development Services, DHEW.

SUBJECT: Announcement of Competition for Grants for Gerontology Career Preparation Programs.

SUMMARY: The Administration on Aging (AoA) announces that applications are being accepted under title IV, part A, of the Older Americans Act of 1965, as amended (42 U.S.C., sec. 3031 *et seq.*) for career preparation grants in the field of aging.

DATE: Closing date for receipt of applications is August 13, 1979.

Scope of This Announcement

This program announcement is one of six (6) published in this issue of the Federal Register for grant and/or cooperative agreement competitions under title IV, parts A and E, of the Older Americans Act. Information describing these activities and other programs of the Office of Education and Training, Administration on Aging, is contained in *AoA Education and Training Program Plans and Guidelines, FY 1979*. Guidelines for the Gerontology Career Preparation Program are

included in a separate section of this document.

Program Purpose

The purpose of the Gerontology Career Preparation Program is to train persons for entry or re-entry into occupations which serve or benefit older Americans.

Program Goal and Objectives

Grants under this program are awarded to post-secondary educational institutions and to other public and private nonprofit institutions to establish or strengthen their capability to develop innovative programs of career preparation in the field of aging. For more than a decade, this grant program has assisted academic institutions to initiate and develop educational programs in gerontology by providing financial assistance for student incentive stipends, faculty salaries, and other costs related to program development and quality improvement. The relative maturity of these programs, combined with the new AoA program mandates in the 1978 Older Americans Act Amendments, have resulted in new or modified program objectives for Fiscal Year 1979 awards under this announcement. Support will be given for projects that provide career training for specific professions and occupations in areas, including, but not limited to, the following:

- Policy formulation, planning, and management, at Federal, State and Area levels in agencies or systems administered under, or directly related to the purposes of the Older Americans Act;
- Supervision of, or practice in, case management or services management at the system or service provider level in programs administered under, or directly related to the purposes of the Older Americans Act;
- Administration of, or practice in, the provision of health services, including mental health services, legal services, services delivered in community focal points such as multi-service senior centers, employment services including guidance and counseling services, services delivered in congregate housing, home care services, day care services, protective services, or transportation services funded through programs administered under, or directly related to the purposes of, the Older Americans Act;
- Administration of, or practice in, the provision of services to special populations such as older members of minority groups, the rural elderly, the

inner cities elderly, or the developmentally disabled elderly funded through programs administered under, or directly related to the purposes of, the Older Americans Act.

Building the capacity of institutions of higher education to provide specialized career training in aging necessarily involves a carefully planned and integrated set of project activities.

Examples of the type of project activities which might be incorporated into a title IV-A Gerontology Career Preparation Program application are given below:

- Developing innovative gerontology curricula and instructional materials;
- Providing financial assistance to students for specific purposes, namely, the establishment of new careers responsive to Older Americans Act program priorities or a concerted attempt to recruit and train minority (Black, Hispanic, Asian and Pacific Islanders or Native Americans) in aging;
- Providing increased student opportunities for combining work and/or practical experience with study;
- Supporting field instructors to supervise field practicums;
- Providing student placement services for jobs serving the elderly;
- Developing effective methods of linking research training, and service in the field of aging;
- Using sophisticated information systems to stimulate the transfer of information and knowledge into the curricula of postsecondary educational institutions;
- Providing continuing education opportunities to upgrade the skills of persons now in priority careers linked to Older American Act programs; and
- Providing consultation to agencies that work with older people.

Both in recognition of the different gerontological program strengths among various types of potential applicants, and to promote equity in the competition for title IV-A support, AoA is establishing four (4) categories of applications:

- (1) University-wide Projects
- (2) Graduate and Professional School Projects
- (3) Two and Four Year Undergraduate Projects
- (4) Consortia Projects

Eligible Applicants

Any public or private post-secondary educational institution may apply for a grant under this announcement. A public or private non-profit agency, organization or institution may apply for a grant under the "Consortia" category, provided it is affiliated or has a letter of

agreement with a post-secondary institution.

Available Funds

The Administration on Aging expects to award a maximum of seventy (70) new multiple project year grant awards in this program for Fiscal Year 1979. Anticipated funding and the number and range of awards for each of the four (4) program categories are:

University Wide

\$3.0 million—18 to 24 awards of \$130 to \$150 thousand each.

Graduate and Professional School

\$1.5 million—10 to 14 awards of \$110 to \$130 thousand each.

Two and Four Year Undergraduates

\$2.0 million—20 to 24 awards of \$80 to \$100 thousand each.

Consortia

\$1.5 million—7 to 9 awards of \$160 to \$200 thousand each. Awards will be made for project periods of nine (9) months to three (3) years depending upon application requests and/or AoA approval of project duration. The initial budget period will be for nine (9) months. Non-competing continuation funding beyond the initial nine (9) month budget period depends on satisfactory performance and availability of funds.

Grantee Share of the Project

Grantees are expected to provide five (5) percent of the total allowable project costs. The grantee share may be cash or in-kind, and must be allowable under the Department's applicable regulations published in 45 CFR Part 74, Subparts G and Q (see 43 FR 34076, August 2, 1978).

Indirect Cost Limitation

Indirect costs for the conduct of training by educational institutions may not exceed eight (8) percent of allowable direct costs.

The Application Process

Availability of Forms

Application for a Gerontology Career Preparation Program grant must be submitted on Standard Form 424, Application for Federal Assistance, and other forms provided for this purpose. Application kits and appropriate instructions are included in *AoA Education and Training Program Plans and Guidelines, FY 1979*.

Copies may be obtained by writing to: Office of Education and Training, Administration on Aging, Room 4266, DHEW North Building, 330 Independence Avenue, SW.,

Washington, D.C. 20201, telephone: (202) 472-4683.

Application Submission

One (1) signed original and four (4) copies of the grant application, including all attachments, must be prepared. The original and two (2) copies must be submitted to the address indicated in the application instructions. One (1) copy is to be submitted to the appropriate State Agency on Aging and one (1) copy is to be submitted to the Director of the DHEW Regional Office of Aging. Addresses for State Agencies on Aging and DHEW Regional Offices of Aging are included in the application instructions.

A-95 Notification Process

Not applicable.

Application Consideration

The Commissioner on Aging will make the final decision on each grant application under this announcement. Applications which are complete and conform to the requirements of the program guidelines will be subjected to a competitive review and evaluation by persons outside the Administration on Aging. The results of the peer review will assist the Associate Commissioner for Education and Training in considering competing applications and making recommendations for funding to the Commissioner on Aging. The Associate Commissioner will take into account comments of the State Agency on Aging and the DHEW Regional Office of Aging. Unsuccessful applicants will be notified in writing. Successful applicants will be notified through the issuance of a Notice of Grant Awarded. This notice sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, the total grantee share expected, and the total period for which project support is intended.

Criteria for Review and Evaluation of Applications

Competing grant applications will be reviewed and evaluated using the following criteria:

1. The degree to which the applicant demonstrates an understanding of the intent of AoA's Gerontology Career Preparation Program in providing personnel to carry out priority Older Americans program responsibilities. (20 points)

2. The responsiveness of the proposed project goals and activities to the objectives of the Gerontology Career Preparation Program. (40 points)

3. Capability and qualifications of the applicant institution and key staff to carry out the proposed project. (40 points)

4. Specificity of the implementation plan and its appropriateness for achieving project objectives, including the means the applicant will employ to place graduates in career positions in the field of aging. (40 points)

5. Adequacy of the applicant's plan for attracting to the program minority students and faculty (Black, Hispanic, Asian or Pacific Islander, or Native American), and for developing appropriate course content and practicum experience concerning the special needs of minority elderly. (30 points)

6. Commitment of the applicant institution to carry out the proposed project and the degree to which similar activities are likely to be carried out beyond the period of AoA support. (20 points)

7. Appropriateness and justification of the budget presentation with respect to its reasonableness in supporting the activities proposed in the application. (20 points)

Closing Dates for Receipt of Applications

The closing date for receipt of applications under this announcement is August 13, 1979. Applications may be mailed or hand delivered. Hand delivered applications will be accepted daily (except Saturdays, Sundays and Federal holidays) from 9:00 a.m. to 5:30 p.m., through August 13, 1979. Mailed applications received after the closing date will be accepted only if they show a U.S. Postal Service postmark or a U.S. Postal Service mail receipt of no later than August 13, 1979.

(Catalog of Federal Domestic Assistance Program No: 13.637, Programs for the Aging—Training Grants)

Dated: June 5, 1979.

Robert Benedict,
Commissioner on Aging.

Approved: June 7, 1979.

Arabella Martinez,
Assistant Secretary for Human Development Services.

[FR Doc. 79-18320 Filed 6-12-79; 8:45 am]

BILLING CODE 4110-92-M

[Program Announcement No. 13637-792]

Geriatric Fellowship Program

AGENCY: Office of Human Development Services, DHEW.

SUBJECT: Announcement of the Competition for Grants for Geriatric Fellowship Projects.

SUMMARY: The Administration on Aging (AoA) announces that applications are being accepted under title IV, part A, of the Older Americans Act of 1965, as amended (42 U.S.C., sec. 3031 *et seq.*), for fellowship grants to develop medical school faculty in gerontology.

DATES: Closing date for receipt of applications is August 13, 1979.

Scope of this Program Announcement

This program announcement is one of six (6) published in this issue of the Federal Register for grant and/or cooperative agreement competitions under title IV, parts A and E, of the Older Americans Act. Information describing these activities and other programs of the Office of Education and Training, Administration on Aging, is contained in *AoA Education and Training Program Plans and Guidelines, FY 1979*. Guidelines for the Geriatric Fellowship Program are included in a separate section of this document.

Program Purpose

The purpose of the Geriatric Fellowship Program is to develop medical school faculty who will be trained and given experience in geriatric medicine to serve as educators and leaders in the training of current and future physicians and other health care providers.

Program Goal and Objectives

Grants will be awarded to medical schools to support three (3) year fellowships to physicians who are entering their third or fourth year of resident training in internal medicine, family practice and/or psychiatry. Fellows will complete a one (1) year residency with special geriatric focus and then serve a two (2) year faculty appointment for full time geriatric teaching and clinical responsibilities. Each grant award will support three (3) fellows whose three (3) year fellowships are scheduled to start and continue in a sequence covering the six (6) year project period. At the completion of the three (3) year fellowship, each physician will:

- Be knowledgeable about the organization and delivery of health services to older persons at the community level, and the public policy issues affecting the availability and acceptability of such services;
- Possess the appropriate knowledge and skills necessary to meet the diagnostic, therapeutic, and care management problems confronting patients in later years;
- Recognize the special physical, psychological and social needs of older

persons and design treatment accordingly;

- Have had an extensive experience in working with older persons in a variety of settings including ambulatory and institutional care (acute and chronic) as well as community based care and facilities (such as home care, day care and outreach programs); and
- Possess the necessary knowledge, skills and experience to approach, on a multidisciplinary basis, the mobilization of appropriate medical, social and related professional and program resources required to meet the short and long term needs of the older patient.

Eligible Applicants

Any institution with accredited programs of graduate medical education and residencies in internal medicine, family practice and/or psychiatry may apply for financial assistance under this announcement. Grants will not be awarded to individuals.

Available Funds

The Administration on Aging expects to make five (5) new multiple project year awards totalling \$200,000 in Fiscal Year 1979. Each award will be approximately \$40,000 for the first budget period of nine (9) months. Depending upon project performance of the grantee and availability of appropriations, non-competing continuation funding for the second and subsequent twelve (12) month budget periods is anticipated as follows:

	Total dollars	Average award
Fiscal year:		
1980	\$275,000	\$55,000
1981	450,000	90,000
1982	575,000	115,000
1983	450,000	90,000
1984	225,000	45,000

Recipient Share of the Project

Cost sharing is considered to be an important means of demonstrating an applicant's commitment to the objectives of this program. Grantee must provide at least one-half of the faculty salary of fellows in the third year of each fellowship. The grantee share may be cash or in-kind, and must be allowable under the Department's applicable regulations published in 45 CFR Part 74, Subparts G and Q (see 43 FR 34076, August 2, 1978).

Indirect Cost Limitation

Indirect costs for the conduct of training by educational institutions may not exceed eight (8) percent of allowable direct costs.

The Application Process

Availability of Forms

Application for a grant under the Geriatric Fellowship Program must be submitted on Standard Form 424, Application for Federal Assistance, and other forms provided for this purpose. Application kits and appropriate instructions are included in *AoA Education and Training Program Plans and Guidelines, FY 1979*.

Copies may be obtained by writing to: Office of Education and Training, Administration on Aging, Room 4266, DHEW North Building, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone: (202) 472-4683.

Application Submission

One (1) signed original and four (4) copies of the grant application, including all attachments, must be prepared. The original and two (2) copies must be submitted to the address indicated in the application instructions. One (1) copy is to be submitted to the appropriate State Agency on Aging and one (1) copy is to be submitted to the Director of the DHEW Regional Office of Aging. Addresses for State Agencies on Aging and DHEW Regional Offices of Aging are included in the application instructions.

A-95 Notification Process

Not applicable.

Application Consideration

The Commissioner on Aging will make the final decision on each grant application under this announcement. Applications which are complete and conform to the requirements of the program guidelines will be subjected to a competitive review and evaluation by qualified persons outside the Administration on Aging. The results of the peer review will assist the Associate Commissioner for Education and Training in considering competing applications and making recommendations for funding to the Commissioner on Aging. The Associate Commissioner will take into account comments of the State Agency on Aging and the DHEW Regional Office of Aging and priorities described under "Special Considerations for Funding." Unsuccessful applicants will be notified in writing. Successful applicants will be notified through the issuance of a Notice of Grant Awarded. This notice sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, the total grantee share expected, and the

total period for which project support is intended.

Special Considerations for Funding

Special consideration will be given to applications which propose recruitment of minority (Black, Hispanic, Native American, and Asian or Pacific Islanders) candidates for fellowships under this program.

Criteria for Review and Evaluation of Applications

Competing grant applications will be reviewed and evaluated, using the following criteria:

1. The degree to which the background statement reflects the applicant's understanding of the intent of the Geriatric Fellowship Program, including, clarity of the statement, understanding of the health and related service needs of older people, and recognition of the need to address these problems along a continuum of care. (10 points)

2. The degree to which the project goals and objectives reflect the intent of the Geriatric Fellowship Program, including objectives which are realistic, relevant and obtainable. (15 points)

3. Specificity and appropriateness of the resources to be used in conducting this program, including behavioral education objectives, curriculum plan, multidisciplinary faculty, clinical resources, educational resources and the evaluation plan. (25 points)

4. Specificity of the implementation plan and its appropriateness to ensuring the accomplishment of project objectives, including plan for recruitment and selection of fellows and the arrangements within the medical specialties and health and allied health professions for achieving a multidisciplinary focus and interdisciplinary involvement. (25 points)

5. Commitment of the applicant institution to carry out proposed activities of the project and the degree to which similar activities will be continued beyond the period of AoA support. (15 points)

6. Appropriateness and justification of the budget presentation with respect to its reasonableness in supporting the activities proposed in the application. (10 points)

Closing Dates for Receipt of Applications

The closing date for receipt of applications under this announcement is August 13, 1979. Applications may be mailed or hand delivered. Hand delivered applications will be accepted

daily (except Saturdays, Sundays, and Federal holidays) from 9 a.m. to 5:30 p.m., through August 13, 1979. Mailed applications received after the closing date will be accepted only if they show a U.S. Postal Service postmark or a U.S. Postal Service mail receipt of no later than August 13, 1979.

(Catalog of Federal Domestic Assistance Program No.: 13.637, Programs for the Aging—Training Grants)

Dated: June 5, 1979.

Robert Benedict,
Commissioner on Aging.

Approved: June 7, 1979.

Arabella Martinez,

Assistant Secretary for Human Development Services.

[FR Doc. 79-18321 Filed 6-12-79; 8:45 am]

BILLING CODE: 4110-92-M

[Program Announcement No. 13637-793]

Minority Research Associate Program

AGENCY: Office of Human Development Services, DHEW.

SUBJECT: Announcement of Competition for Grant Funds for Minority Research Associate Projects.

SUMMARY: The Administration on Aging (AoA) announces that applications are being accepted under title IV, part A, of the Older Americans Act of 1965, as amended, (42 U.S.C., sec. 3031 *et seq.*) for Fiscal Year 1980 grants strengthening the interest, participation and productivity of minority research associates in the field of aging.

DATES: Closing date for receipt of applications is September 20, 1979.

Scope of This Announcement

This program announcement is one of two new special activities under title IV, part A, of the Older Americans Act, which addresses the special education and training needs of minority group individuals with careers in the field of aging. The other activity, the Minority Recruitment Program, will be supported through award of contracts under the Small Business Administration's title 8(a) Minority Business Firm Program. Five (5) other grant program announcements for education and training activities under title IV, parts A and E, are announced separately in this issue of the Federal Register. Information describing these and other programs of the Office of Education and Training, Administration on Aging, are contained in *AoA Education and Training Program Plans and Guidelines, FY 1979*. Guidelines for the Minority Research Associate Program are

included in a separate section of this document.

Program Purpose

The purpose of the Minority Research Associate Program is to provide opportunities for strengthening the interest, participation and productivity of minority (Black, Hispanic, Asian and Pacific Islander or Native American) scholars in performing research in the field of aging, particularly studies related to service provision and delivery to minority elderly.

Program Goal and Objectives

The goal of the Minority Research Associate Program is to enhance participation in aging research by experienced minority social scientists whose expertise could well be used in the field of aging. By encouraging increased efforts to expand the base of knowledge concerning minority aging, the Program will contribute to advances in public policies and programs on behalf of minority elderly. This goal is to be achieved through AoA support of projects designed to accomplish all of the following:

- Effectively recruit qualified minority social scientists from private research organizations, social service agencies and post-secondary educational institutions, particularly institutions with large minority enrollments;
- Provide extensive opportunities for education and research in gerontology;
- Foster research activity focused on improvement of services or service delivery, changes in Federal programs, or new policy recommendations benefiting minority elderly; and
- Recognize and be responsive to the cultural variations and different needs of minority elderly.

Eligible Applicants

Any public or private non-profit agency or organization may apply for grant support under this announcement. Grants will not be awarded to individuals.

Available Funds

The Administration on Aging expects to award \$480,000 for this program in Fiscal Year 1980. Approximately eight (8) new two-year grants will be made with awards averaging \$45,000 to \$75,000 each per year. In Fiscal Year 1981, subject to availability of adequate funds, AoA intends to fund an additional seven (7) Minority Research Associate projects.

Recipient Share of the Project

Cost sharing is considered to be an important means of demonstrating an applicant's commitment to the objectives of this program. Grantees are expected to provide five (5) percent of the total allowable project costs. The grantee share may be cash or in-kind, and must be allowable under the Department's applicable regulations published in 45 CFR Part 74, Subparts G and Q (see 43 FR 34076, August 2, 1978).

Indirect Cost Limitation

Indirect costs for the conduct of training by educational institutions may not exceed eight (8) percent of allowable direct costs.

The Application Process

Availability of Forms

Application for a grant under the Minority Research Associate Program must be submitted on Standard Form 424, Application for Federal Assistance, and other forms provided for this purpose. Application kits and appropriate instructions are included in *AoA Education and Training Program Plans and Guidelines, FY 1979*.

Copies may be obtained by writing to:

Office of Education and Training,
Administration on Aging, Room 4260,
DHEW North Building, 330
Independence Avenue, SW.,
Washington, D.C. 20201. Telephone:
(202) 472-4683.

Application Submission

One (1) signed original and four (4) copies of the grant application, including all attachments, must be prepared. The original and two (2) copies must be submitted to the address indicated in the application instructions. One (1) copy is to be submitted to the appropriate State Agency on Aging and one (1) copy is to be submitted to the Director of the DHEW Regional Office of Aging. Addresses for State Agencies on Aging and DHEW Regional Offices of Aging are included in the application instructions.

A-95 Notification Process

Not applicable.

Application Consideration

The Commissioner on Aging will make the final decision on each grant application under this announcement. Applications which are complete and conform to the requirements of the program guidelines will be subjected to a competitive review and evaluation by qualified persons outside the Administration on Aging. The results of

the peer review will assist the Associate Commissioner for Education and Training in considering competing applications and making recommendations for funding to the Commissioner on Aging. The Associate Commissioner will take into account comments of the State Agency on Aging and the DHEW Regional Office of Aging and priorities described under "Special Considerations for Funding." Unsuccessful applicants will be notified in writing. Successful applicants will be notified through the issuance of a Notice of Grant Awarded. This notice sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, the total grantee share expected, and the total period for which project support is intended.

Special Considerations for Funding

In making grant awards under this announcement, the Commissioner will take into account the merits of achieving a balanced representation of the research associates among the four minority groups (Asian and Pacific Islanders, Blacks, Hispanics, and Native Americans).

Criteria for Review and Evaluation of Applications

Competing applications will be reviewed and evaluated against the following criteria:

1. Quality of the project design, including compatibility of the project with program objectives, adequacy of the recruitment plan for attracting qualified social scientists, clarity and specificity of project objectives, and feasibility and likely effectiveness of the project design. (30 points)
2. Specificity and appropriateness of anticipated project outcomes, including enhancement of professional capabilities and career opportunities of participating minority social scientists, and the production of research results that will be useful in developing programs responsive to the needs of minority elderly. (30 points)
3. Qualifications of the applicant and the minority research associate candidate(s) with respect to the applicant's commitment to the project, and the potential of the proposed minority research associate(s) for carrying out research in social gerontology. (30 points)
4. Reasonableness and appropriateness of the proposed budget. (10 points)

Closing Dates for Receipt of Applications

The closing date for receipt of applications under this announcement is September 20, 1979. Applications may be mailed or hand delivered. Hand delivered applications will be accepted daily (except Saturdays, Sundays and Federal holidays) from 9:00 a.m. to 5:30 p.m., through September 20, 1979. Mailed applications received after the closing date will be accepted only if they show a U.S. Postal Service postmark or a U.S. Postal Service mail receipt of no later than September 20, 1979.

(Catalog of Federal Domestic Assistance Program No.: 13.637, Programs for the Aging—Training Grants)

Dated: June 5, 1979.

Robert Benedict,
Commissioner on Aging.

Approved: June 7, 1979.

Arabella Martinez,
Assistant Secretary for Human Development Services.

[FR Doc. 79-18322 Filed 6-12-79; 8:45 am]
BILLING CODE 4110-92-M

[Program Announcement No. 13638-791]

Multidisciplinary Centers of Gerontology Program: Long Term Care Gerontology Centers

AGENCY: Office of Human Development Services, DHEW.

SUBJECT: Announcement of Competition for Grants for Long Term Care Gerontology Center Projects.

SUMMARY: The Administration on Aging (AoA) announces that applications are being accepted under title IV, part E, of the Older Americans Act of 1965, as amended (42 U.S.C., sec. 3036), Multidisciplinary Centers of Gerontology Program, for grants to support development of Long Term Care Gerontology Centers.

DATES: Closing date for receipt of applications is August 27, 1979.

Scope of this Announcement

This program announcement is one of two (2) sets of activities under the Multidisciplinary Centers of Gerontology Program announced in this issue of the Federal Register. The other is a cooperative agreement competition for development and operation of Aging Policy Study Centers. Four (4) other grant and cooperative agreement competitions under title IV, part A (Career Training), of the Older Americans Act, are also announced in this issue. Information describing these activities and other programs of the

Office of Education and Training, Administration on Aging, are contained in *AoA Education and Training Program Plans and Guidelines, FY 1979*. Guidelines for the Long Term Care Gerontology Centers are included in a separate section of this document.

Program Purpose

The purpose of the Long Term Care Gerontology Centers is to give financial assistance to institutions which engage in research and demonstration, education and training, technical assistance, and synthesis and dissemination of knowledge concerning issues, policies and programs affecting long term care of the chronically impaired elderly.

Program Goal and Objectives

The Administration on Aging has established as the goal of the Long Term Care Gerontology Centers the development of regional-level institutions which focus upon the broad issues of providing community-based service systems for chronically impaired older Americans. This goal is to be attained by support of a complex set of projects and activities in long term care of the elderly in collaboration with governmental, voluntary, and other public and private agencies and organizations serving the aged. Individual centers will be supported to pursue this goal by functioning as:

- Effective demonstrations of a full range of integrated health and social services geared specifically to the chronically impaired elderly;
- Ideal sites for training future health and social service professionals as members of multidisciplinary teams;
- Centers of excellence in continuing education for service providers who currently work, or will work, with impaired elderly;
- Research sites uniquely suited to social and health services research, especially policy-oriented research, on the delivery and effectiveness of services to the chronically impaired;
- Authoritative and resourceful providers to consumers and policy makers of up-to-date scientifically-based information concerning health maintenance and health policy issues; and
- Accessible and available providers of technical assistance to service agencies in the governmental and voluntary sectors.

The Administration on Aging intends to achieve the objectives set for the Long Term Care Gerontology Centers by supporting individual centers in two phases. In response to this program

announcement, applications will be considered for award of Phase I grants for a project period of one year. During Phase I, grantees will develop a program and secure necessary relationships with State and Area Agencies on Aging, health and social service providers and medical schools and other academic institutions not directly involved in submitting the application for Phase I support, but within the same DHEW region as the successful applicant. The culmination of Phase I support will be an application for Phase II or full-scale center operation. Phase I centers which successfully compete for Phase II support will conduct programs with the following functional components:

- Clinical services which provide a full spectrum of integrated health and social services to chronically impaired elderly;
- An educational and professional training program in the health and social sciences to develop manpower for meeting the service needs of the chronically impaired elderly;
- A research program addressing policy relevant issues in planning, organizing, administering, financing, and evaluating health and social service systems;
- Public information activities providing effective dissemination of new knowledge regarding chronic illness and impairment in the elderly with emphasis on early evaluation, intervention, techniques of self-care and maintenance of independent functioning; and
- Coordination and technical assistance activities with Area Agencies on Aging in their DHEW region and long term care projects funded under new initiatives of the Older Americans Act.

Eligible Applicants

Any university or public or private, non-profit health and social service organization may apply for financial assistance under this announcement, provided the applicant is affiliated or has a letter of agreement with a medical school to serve as a teaching facility for health and allied health professionals.

Available Funds

The Administration on Aging expects to make sixteen (16) to twenty-four (24) new one (1) year awards for Phase I Long Term Care Gerontology Centers in Fiscal Year 1979. Total funding anticipated for Phase I grants is \$1.6 million. Each award is expected to range from \$60,000 to \$100,000 for the one (1) year project and budget year. Multiple project year awards in the form of cooperative agreements are expected under Phase II of this program. These

grants will be competitively awarded in Fiscal year 1980. Each Phase II award is expected to be approximately \$250,000 for the first twelve-month budget year, and \$400,000 for each subsequent budget year for a total project period of three (3) years. Prior to the completion of the initial Phase II project period, the centers will be afforded the opportunity to compete for an additional two (2) years of title IV, part E, support. Phase II center projects are expected to seek support from other sources to augment funding for core functions in order to fulfill the long term expectations of this program. Sources of anticipated support include other Administration on Aging programs, and other Federal agencies with missions and interests in long term geriatric care, such as the National Institute on Aging, the Veterans Administration, and National Institute of Mental Health.

Recipient Share of the Project

Cost sharing is considered to be an important means of demonstrating an applicant's commitment to the objectives of this program. Grantees are expected to provide five (5) percent of the total allowable project costs. The grantee share may be cash or in-kind, and must be allowable under the Department's applicable regulations published in 45 CFR Part 74, subpart G and Q (see FR 34076, August 2, 1978).

Indirect Cost Limitation

Not applicable.

The Application Process

Availability of Forms

Application for a grant under the Long Term Care Gerontology Centers Program must be submitted on Standard Form 424, Application for Federal Assistance, and other forms provided for this purpose. Application kits and appropriate instructions are included in *AOA Education and Training Program Plans and Guidelines, FY 1979*. Copies may be obtained by writing to:

Office of Education and Training
Administration on Aging, Room 4266,
DHEW North Building, 330
Independence Avenue, SW.,
Washington, D.C. 20201. Telephone:
(202) 472-4683.

Application Submission

One (1) signed original and four (4) copies of the grant application, including all attachments, must be prepared. The original and two (2) copies must be submitted to the address indicated in the application instructions. One (1) copy is to be submitted to the

appropriate State Agency on Aging and one (1) copy is to be submitted to the Director of the DHEW Regional Office of Aging. Addresses for State Agencies on Aging and DHEW Regional Offices of Aging are included in the application instructions.

A-95 Notification Process

Applications for Long Term Care Gerontology Centers must follow the provisions of OMB Circular A-95. Applicants for grants must, prior to the submission of an application, notify both the State and Area-wide A-95 Clearinghouses of their interest to apply for Federal assistance for this program. Applicants should contact the appropriate State Clearinghouse (listed in 42 FR 2210, January 10, 1977), or DHEW Regional Offices of Aging for information on how they can meet the A-95 requirements. Addresses of the DHEW Regional Offices of Aging are included in the application instructions.

Application Consideration

The Commissioner on Aging will make the final decision on each grant application under this announcement. Applications which are complete and conform to the requirements of the program guidelines will be subjected to a competitive review and evaluation by qualified persons outside the Administration on Aging. The results of the peer review will assist the Associate Commissioner for Education and Training in considering competing applications and making recommendations for funding to the Commissioner on Aging. The Associate Commissioner will take into account comments of the State Agency on Aging and the DHEW Regional Office of Aging and priorities described under "Special Considerations for Funding." Unsuccessful applicants will be notified in writing. Successful applicants will be notified through the issuance of a Notice of Grant Awarded. This notice sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, the total grantee share expected, and the total period for which project support is intended.

Special Considerations for Funding

Special consideration for funding will be given to applicants that:

- Can document that a high proportion of residents in their service area are aged 75 and over, and/or reside in rural areas, and/or are members of a minority group (Blacks, Hispanics, Asians or Pacific Islanders, and Native Americans)

- Are affiliated with or have working agreements with a variety of service and care facilities for the elderly, including nursing home, day-care centers, senior centers, various health and social service programs as well as specialized housing for the elderly.

Criteria for Review and Evaluation of Applications

Competing grant applications will be reviewed and evaluated against the following criteria:

1. The degree to which the background statement reflects the applicant's understanding of the intent of the Long Term Care Gerontology Center Program. This will include consideration of clarity of the statement and understanding of need. (10 points)

2. The degree to which the project goals and objectives reflect the intent of the Long Term Care Gerontology Center Program. This will include consideration of the responsiveness to the program purposes outlined in Section 2 of the guidelines. (15 points)

3. Specificity and appropriateness of the resources to be used in approaching this project. This will include demonstrated administrative ability, appropriateness of staffing, adequacy of facilities, and past experience of the applicant and its affiliates. (25 points)

4. Specificity of the implementation plan and its appropriateness in ensuring the accomplishment of the developmental objectives. This includes consideration of the thoroughness, completeness, coherence and sophistication of the development grant proposal, including demonstrated awareness of existing models of continuum of services in the delivery of long term care to the chronically impaired (25 points)

5. Demonstrated commitment of the applicant institution to carry out the proposed project and the degree to which similar activities will be carried out beyond the period of AoA support. This includes the likelihood that the development grant, if awarded, will result in a detailed, comprehensive and realistic plan for a full scale Long Term Gerontology Center. (15 points)

6. Appropriateness and justification of the budget as to its reasonableness in supporting the activities proposed for achieving project objectives. (10 points)

Closing Dates for Receipt of Applications

The closing date for receipt of applications under this announcement is

August 27, 1979. Applications may be mailed or hand delivered. Hand delivered applications will be accepted daily (except Saturdays, Sundays and Federal holidays) from 9:00 a.m. to 5:30 p.m., through August 27, 1979. Mailed applications received after the closing date will be accepted only if they show a U.S. Postal Service postmark or a U.S. Postal Service mail receipt of no later than August 27, 1979.

(Catalog of Federal Domestic Assistance Program No: 13.638, Multidisciplinary Centers of Gerontology Program)

Dated: June 5, 1979.

Robert Benedict,
Commissioner on Aging.

Approved: June 7, 1979.

Arabella Martinez,
Assistant Secretary for Human Development Services.

[FR Doc. 79-16324 Filed 6-12-79; 8:45 am]

BILLING CODE 4110-92-M

[Program Announcement No. 13638-792]

Multidisciplinary Centers of Gerontology Program: Aging Policy Study Centers

AGENCY: Office of Human Development Services, DHEW.

SUBJECT: Announcement of Competition for Cooperative Agreements for Aging Policy Study Center Projects.

SUMMARY: The Administration on Aging (AoA) announces that applications are being accepted under title IV, part E, of the Older Americans Act of 1965, as amended (42 U.S.C., sec. 3036), Multidisciplinary Centers of Gerontology Program, for cooperative agreements to support development of Aging Policy Study Centers.

DATES: Closing date for receipt of applications is September 4, 1979.

Scope of this Announcement

This program announcement is one of two (2) sets of activities under the Multidisciplinary Centers of Gerontology Program announced in this issue of the Federal Register. The other is a grant competition for development and operation of Long Term Care Gerontology Centers. Four (4) other grant and cooperative agreement competitions under title IV, part A (Career Training), of the Older Americans Act, are also announced in this issue. Information describing these activities and other programs of the Office of Education and Training, Administration on Aging, are contained in *AoA Education and Training Program Plans, and Guidelines, FY 1979.*

Guidelines for the Aging Policy Study Centers are included in a separate section of this document.

Program Purpose

The Administration on Aging provides financial support under the Multidisciplinary Centers of Gerontology Program for Aging Policy Study Centers to encourage the development of organizational, personnel and other resources for the performance of activities that solve or significantly alleviate, social, economic or health related problems or conditions of impairment affecting older Americans.

Program Goal and Objectives

The Administration on Aging has established the following goals for Aging Policy Study Centers:

- The development of manpower and training resources capable of addressing major problems and issues affecting the planning, administration and delivery of services to the elderly;

- The generation and synthesis of new and existing knowledge from fields and disciplines relevant to the field of aging, and its specific application towards the development and testing of more effective policies affecting the delivery of services to the elderly;

- The development and support of organizational resources which encourage and facilitate interdisciplinary communication and work performance in a problem-focused multifunctional setting.

To achieve these goals, the Administration on Aging has established the following objectives for Aging Policy Study Centers:

- To develop consensus among various constituencies in the field of aging on the scope and nature of subject and problem-focused areas appropriate for consideration by the Aging Policy Study Centers;

- To set long-term goals for projects and activities that address problems affecting the well being of elderly citizens, including the study and assessment of policies and programs at Federal State and local levels of relevant focus;

- To develop and sustain organizational and leadership resources capable of sustaining multidisciplinary and interdisciplinary activities, including identification and support of knowledge building networks involving scholars, experts, practitioners and policy makers;

- To develop formal relationships with schools, departments and colleges in fields and disciplines relevant to

specific aging subject and problem areas for the exchange of faculty, development of educational programs and materials, and sharing of other resources.

The Administration on Aging expects that each Aging Policy Center will have a unique subject or problem area focus of national concern to the elderly. The nature and extent of this focus will affect the types of organizations and individuals who are expected to be involved in order for the center to achieve the program's goals and objectives. For this competition, the Administration on Aging has established nine (9) priority subject areas for Aging Policy Study Center projects. An applicant may select one (1) of these subject areas, or offer an alternative which it believes to be equally important under the legislative mandate of the Older Americans Act. The nine (9) priority areas are:

- Health
- Income Maintenance
- Housing and Living Arrangements
- Employment and Retirement
- Education, Leisure and Continuing Opportunities for Older Persons
- Family and Community Support Systems
- Older Women
- Aging in the Future Society
- Ethics and Values in the Aging Society

Method of Support

Support of all Aging Policy Study Center projects will be awarded in two phases using cooperative agreements. Cooperative agreements are a form of financial assistance, similar to grants, but which differ from grants in that substantial involvement is anticipated between the Administration on Aging and the recipient during performance of project activities. The level and type of involvement in Aging Policy Study Centers by AoA is specified in the application guidelines. In Phase I, centers will receive support for a fifteen (15) month budget and project period. A major activity for the first twelve (12) months will be the development of a long-range plan which addresses priority issues and concerns that emerge from discussions with relevant academic, practitioner and policy making communities. Phase I centers will also engage in activities of shorter term duration consistent with program goals and objectives. Phase II cooperative agreements will be awarded on a non-competitive basis to Phase I centers which successfully complete a formal review process for performance of the long range plan produced during Phase I. Phase II support will sustain

core functions of centers and provide some assistance in performance of other project activities. Phase II centers, however, are expected to seek the support of other Administration on Aging programs such as title IV B (Research); other Federal agencies; and State, Area and other governmental agencies; and private, non-profit organizations of relevance to their unique subject area.

Eligible Applicants

Any public or private non-profit agency or organization may apply for support under this announcement.

Available Funds

The Administration on Aging expects to award \$1 million for Phase I Aging Policy Study Centers in Fiscal Year 1980. It is anticipated that up to \$1.25 million per year will be available for Phase II centers in Fiscal Years 1981, 1982, and 1983. A total of five (5) cooperative agreements will be awarded in December 1979 under this announcement. Each award is expected to be approximately \$200,000 with a project period of fifteen (15) months. Support under Phase II cooperative agreements will be approximately \$250,000 per year for a project period of thirty-eight (38) months.

Recipient Share of the Project

Cost sharing is considered to be an important means of demonstrating the applicant's commitment to the objectives of this program. Grantees are expected to provide five (5) percent of the total allowable project costs. The grantee share may be cash or in-kind, and must be allowable under the Department's applicable regulations published in 45 CFR Part 74, Subparts G and Q (see 43 FR 34076, August 2, 1978). It should be understood that applicants who hope to successfully apply for Phase II financial assistance should be able to demonstrate a willingness and ability to increase their own participation in support of this project and successfully solicit other sources of financial support related to the center's focus.

Indirect Cost Limitation

Not applicable.

The Application Process

Availability of Forms

Application for a grant under the Aging Policy Study Centers must be submitted on Standard Form 424, Application for Federal Assistance, and other forms provided for this purpose. Application kits and appropriate

instructions are included in AoA *Education and Training Program Plans and Guidelines, FY 1979*. Copies may be obtained by writing to:

Office of Education and Training
Administration on Aging, Room 4288,
DHEW North Building, 330
Independence Avenue, SW.,
Washington, D.C. 20201. Telephone:
(202) 472-4683.

Application Submission

One (1) signed original and four (4) copies of the grant application, including all attachments, must be prepared. The original and two (2) copies must be submitted to the address indicated in the application instructions. One (1) copy is to be submitted to the appropriate State Agency on Aging and one (1) copy is to be submitted to the Director of the DHEW Regional Office of Aging. Addresses for State Agencies on Aging and DHEW Regional Offices of Aging are included in the application instructions.

A-95 Notification Process

Not applicable.

Application Consideration

The Commissioner on Aging will make the final decision on each application under this announcement. Applications which are complete and conform to the requirements of the program guidelines will be subjected to a competitive review and evaluation by qualified persons outside the Administration on Aging. Applications will be reviewed in three stages. During the first stage, applications will be sent to qualified experts in the field of aging, and to experts in the subject or problem area selected by the applicant. In the second stage, the results of the first stage will be considered by a review panel selected from participants in the first stage with representation by staff from other Administration on Aging programs, the Office of Human Development Services, and the Office of the Assistant Secretary for Planning and Evaluation in DHEW. The review panel will recommend leading applicants in Administration on Aging priority and applicant initiated subject areas. Review panel recommendations will be submitted to the Associate Commissioner on Aging for Education and Training. In the third, and final stage of proposal review, site visit teams consisting of AoA staff and participants from earlier stages of review, will visit each applicant recommended by the second stage review panel. The results of the peer review and the recommendations of the review panel

and the site visit team will assist the Associate Commissioner for Education and Training in considering competing applications and making recommendations for funding to the Commissioner on Aging.

The Associate Commissioner will take into account comments of the State Agencies on Aging and the DHEW Regional Offices of Aging. Unsuccessful applicants will be notified in writing. Successful applicants will be invited by letter from the Commissioner on Aging to enter into negotiations with the Administration on Aging and the Office of Human Development Services for award of a Phase I cooperative agreement. The actual award will be made through issuance of a Notice of Grant Awarded from the Office of Human Development Services. This notice sets forth the amount of funds awarded, the terms and conditions of the cooperative agreement, the budget period for which support is given, the total recipient share expected, and the total period for which project support is given.

Criteria for Review and Evaluation of Applications

Competing applications will be reviewed and evaluated against the following criteria:

1. Responsiveness of the applicant to the goals and objectives established by the Administration on Aging for Aging Policy Study Centers, including plans for integrating multidisciplinary and multi-functional activities and strategies for participation of outside interests in center planning and performance. (40 points)

2. Adequacy of plans for performance of individual tasks, including mission development; short term knowledge building and synthesis activities; education and training program efforts; technical assistance activities; and development of knowledge and communication networks. (60 points)

3. Appropriateness and experience of key staff and consultants. (40 points)

4. Appropriateness and justification of the budget presentation with respect to its reasonableness in supporting the activities proposed in the application. (30 points)

5. Appropriateness of experience of the applicant institution and adequacy of its resources and facilities. (30 points)

Closing Dates for Receipt of Applications

The closing date for receipt of applications under this announcement is September 4, 1979. Applications may be

mailed or hand delivered. Hand delivered applications will be accepted daily (except Saturdays, Sundays and Federal holidays) from 9:00 a.m. to 5:30 p.m., through September 4, 1979. Mailed applications received after the closing date will be accepted only if they show a U.S. Postal Service postmark or a U.S. Postal Service mail receipt of no later than September 4, 1979.

(Catalog of Federal Domestic Assistance Program No.: 13.638, Multidisciplinary Centers of Gerontology Program)

Dated: June 5, 1979.

Robert Benedict,

Commissioner on Aging.

Approved: June 7, 1979.

Arabella Martinez,

Assistant Secretary for Human Development Services.

[FR Doc. 79-15325 Filed 6-12-79; 8:45 am]

BILLING CODE 4110-92-M

[Program Announcement No. 13637-794]

National Continuing Education Program

AGENCY: Office of Human Development Services, DHEW.

SUBJECT: Announcement of Competition for Grant or Cooperative Agreements for National Continuing Education projects.

SUMMARY: The Administration on Aging (AoA) announces that applications are being accepted under title IV, part A, of the Older Americans Act of 1965, as amended (42 U.S.C., sec. 3031 *et seq.*) for grant or cooperative agreements meeting the education and training needs of service personnel in the field of aging.

DATES: Closing date for receipt of applications is August 13, 1979.

Scope of this Announcement

This program announcement is one of six (6) published in this issue of the Federal Register for grant and/or cooperative agreement competitions under title IV, parts A and E, of the Older Americans Act. Information describing these activities and other programs of the Office of Education and Training, Administration on Aging, is contained in *AoA Education and Training Program Plans and Guidelines, FY 1979*. Guidelines for the National Continuing Education Program are included in a separate section of this document.

Program Purpose

The purpose of the National Continuing Education Program is to provide financial support for design, development and implementation of training activities meeting the continuing

needs of public and private service practitioners and providers in the field of aging.

Program Goal and Objectives

Financial assistance under this program is awarded for projects which prepare continuing educators to design, develop and implement training programs in the field of aging. The program goal is to support projects which use a "train the trainer" approach. Projects are expected to design, develop and evaluate curricula and related activities for the conduct of workshops, institutes or courses for continuing educators. These educators and trainers will, in turn, use knowledge gained from these training programs to design, develop and conduct education and training activities within their own States, localities and regions. The ultimate beneficiaries of this program are administrators, practitioners, and providers of service to older persons in their homes and in such settings as hospitals, nursing homes, long term care facilities, day centers and hospitals, outpatient service departments, and community health and mental health centers. The program goal, and the needs of service practitioners and providers will be met by designing education and training activities meeting these content objectives:

- Identification and understanding of unique service needs of older adults;
- Familiarization and understanding of the functions and services provided to the aging service network, especially State and Area Agencies on Aging;
- Knowledge of and familiarity with the resources available to professionals who develop, implement, manage or provide staff development programs;
- Knowledge and skill development in the teaching modalities most useful for staff development activities used in training service practitioner and provider personnel; and
- Knowledge of continuing education organizations and systems.

The Administration on Aging has the following priorities for the National Continuing Education Program in Fiscal Year 1979:

- Staff development personnel in health, mental health, and long term care facilities (one award)
- Personnel in continuum of care services (two awards)
- Supervisors of home services (one award)

Design and development of curricula and activities that meet the above program objectives and priorities should consider the following strategies for dissemination and implementation:

- AoA's training and technical assistance activities in DHEW Regional Offices of Aging, and
- Placement of project materials in the public domain.

Eligible Applicants

Any public or private non-profit agency, organization or institution may apply for financial support under this announcement.

Available Funds

The Administration on Aging expects to award a maximum of four (4) new awards for this program, totaling \$500,000 in Fiscal Year 1979. Each award will be approximately \$100,000 to \$150,000 for a budget period of twelve months. The project period may not exceed two (2) years.

Recipient Share of the Project

Cost sharing is considered to be an important means of demonstrating an applicant's commitment to the objectives of this program. Recipients are expected to provide five (5) percent of the total allowable project costs. The recipient share may be cash or in kind, and must be allowable under the Department's applicable regulations published under 45 CFR Part 74, Subparts G and Q (see 43 FR 34076, August 2, 1978).

Indirect Cost Limitation

Indirect costs for the conduct of training by educational institutions may not exceed eight (8) percent of allowable direct costs.

Types of Award

Awards will be made under this program by both grant and cooperative agreement. The cooperative agreement instrument will be used in those cases in which the Administration on Aging expects to have considerable involvement with the projects, such as jointly reviewing and approving of activities and products. The involvement shall not include identifying or directing the specific groups to be trained or specific content or curriculum to be developed. However, the Administration on Aging will jointly, with the recipient, approve on a general basis, the approach in carrying out the project.

The Application Process

Availability of Forms

Application for financial assistance under the National Continuing Education Program must be submitted on Standard Form 424, Application for Federal Assistance; and other forms provided for this purpose. Application

kits and appropriate instructions are included in *AoA Education and Training Program Plans and Guidelines, FY 1979*.

Copies may be obtained by writing to: Office of Education and Training, Administration on Aging, Room 4266, DHEW North Building, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone: (202) 472-4683.

Application Submission

One (1) signed original and four (4) copies of the grant application, including all attachments, must be prepared. The original and two (2) copies must be submitted to the address indicated in the application instructions. One (1) copy is to be submitted to the appropriate State Agency on Aging and one (1) is to be submitted to the Director of the DHEW Regional Office of Aging. Addresses for State Agencies on Aging and DHEW Regional Offices of Aging are included in the application instructions.

A-95 Notification Process

Not applicable.

Application Consideration

The Commissioner on Aging will make the final decision on each grant application under this announcement. Applications which are complete and conform to the requirements of the program guidelines will be subjected to a competitive review and evaluation by qualified persons outside the Administration on Aging. The results of the peer review will assist the Associate Commissioner for Education and Training in considering competing applications and making recommendations for funding to the Commissioner on Aging. The Associate Commissioner will take into account comments of the State Agency on Aging and the DHEW Regional Office of Aging and priorities described under "Special Considerations for Funding."

Unsuccessful applicants will be notified in writing. Successful applicants will be notified through the issuance of a Notice of Grant Awarded. This notice sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, the total grantee share expected, and the total period for which project support is intended.

Special Considerations for Funding

Special consideration will be given to projects which emphasize development of curricula and course content that address the needs and concerns of minority older persons (black, Hispanic,

Asian and Pacific Islander, or Native American); those living in rural, isolated areas; low income; and chronically ill or impaired older persons.

Criteria for Review and Evaluation of Applications

Competing applications will be reviewed and evaluated using the following criteria:

1. The significance of the proposed project with respect to the state of the art in continuing education activities in the field of aging, including adequacy in addressing current deficiencies and factors contained in the applicant's approach that clearly indicate the extent of the contribution to be made by funding this project. (25 points)

2. The reasonableness and specificity of the applicants proposal with respect to the program objectives, including their appropriateness for measuring progress and achievement. (20 points)

3. Appropriateness and feasibility of methodology to accomplish proposed objectives, including clarity of descriptions of learning objectives, curriculum content and design, methods, materials and organization of the proposed project. (25 points)

4. Appropriateness of evaluation and dissemination plans which describe the approach to be taken to determine whether or not the project objectives are being met, and to whom and how information concerning training activities will be disseminated. (10 points)

5. The capability and qualifications of the applicant to carry out the proposed project, including experience of the organization, project staff, consultants, and training faculty. (10 points)

6. Appropriateness and justification of budget presentation. (10 points)

Closing Dates for Receipt of Applications

The closing date for receipt of applications under this announcement is August 13, 1979. Applications may be mailed or hand delivered. Hand delivered applications will be accepted daily (except Saturdays, Sundays, and Federal holidays) from 9 a.m. to 5:30 p.m., through August 13, 1979. Mailed applications received after the closing date will be accepted only if they show a U.S. Postal Service postmark or a U.S. Postal Service mail receipt of no later than August 13, 1979.

(Catalog of Federal Domestic Assistance Program No. 13.637, Programs for the Aging—Training Grants)

Dated: June 5, 1979.

Robert Benedict,
Commissioner on Aging.

Approved: June 7, 1979

Arabella Martinez,
Assistant Secretary for Human Development
Services.

[FR Doc. 79-16323 Filed 6-12-79; 8:45 am]

BILLING CODE 4110-92-M

Social Security Administration

International Agreements; Agreement Between the U.S. and Italy on the Matter of Social Security; Availability of Text of Agreement

The Commissioner of Social Security gives notice that the text of an agreement coordinating the social security systems of the United States and Italy is available to interested parties. This agreement, authorized under section 233 of the Social Security Act, became effective on November 1, 1978. It permits persons who have earned sufficient periods of coverage under the social security systems of both the United States and Italy to become entitled to benefits on the basis of their combined (totalized) credits. Under the agreement, each country will pay its pro rata share of the benefit amount based on the proportion of total covered work that was completed in that country. In addition, the agreement eliminates dual coverage and dual taxation of the same work. For example, a United States citizen working in Italy who was covered by and paid taxes to both the United States and Italian social security systems, remains covered under the United States system, is excluded from coverage under the Italian system, and pays taxes only to the United States system.

The agreement has been published in booklet form as part of the *Treaties and Other International Acts Series* (TIAS No. 9058). This publication contains (1) the principal agreement signed on May 23, 1973; (2) an administrative protocol signed on November 22, 1977, clarifying several provisions of the principal agreement and establishing the basic procedure for implementing the principal agreement; (3) statements signed on October 21, 1977 and October 4, 1978, following meetings between representatives of the two countries; and (4) an exchange of notes signed on January 16 and 20, 1978, revising the definition of the United States basic benefit amount. Copies may be purchased for \$2.50 from the Superintendent of Documents, U.S. Government Printing Office,

Washington, D.C. 20402. Also, persons who have questions about the agreement or wish more information about its provisions may write to: Totalization, Post Office Box 17049, Baltimore, Maryland 21235.

Dated: May 24, 1979.

Stanford G. Ross,
Commissioner of Social Security.

[FR Doc. 79-16371 Filed 6-12-79; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

FDA-586-DR; Docket No. NFD-715

Florida; Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Florida (FDA-586-DR), dated May 15, 1979, and related determinations.

DATED: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of May 15, 1979, to the Secretary, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Florida resulting from severe storms, tornadoes and flooding, beginning on or about May 8, 1979, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Florida.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban

Development Delegation of Authority, Docket No. D-74-284, I hereby appoint Mr. Norman Steinlauf of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Florida to have been affected adversely by this declared major disaster.

The following Counties for Individual Assistance only: Hillsborough, Pinellas, Polk, Volusia.

(Catalog of Federal Domestic Asst. No. 14.701, Disaster Assistance)

[FR Doc. 79-16343 Filed 6-12-79; 8:45 am]

BILLING CODE 4210-22-M

FDA-577-DR; [Docket No. NFD-713]

Mississippi; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Mississippi (FDA-577-DR), dated April 16, 1979.

DATED: May 23, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: This Notice of major disaster for the State of Mississippi dated April 16, 1979, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 16, 1979.

For Individual Assistance and Public Assistance: Tallahatchie County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

[FR Doc. 79-16344 Filed 6-12-79; 8:45 am]

BILLING CODE 4210-22-M

[FDA-581-DR; Docket No. NFD-714]

North Dakota; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of North Dakota (FDA-581-DR), dated April 26, 1979.

DATED: May 24, 1979.

FOR FURTHER INFORMATION CONTACT:

Sewall H. E. Johnson, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: This Notice of a major disaster for the State of North Dakota dated April 26, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 26, 1979.

McKenzie County
Sheridan County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox,

Administrator, Federal Disaster Assistance Administration.

[FR Doc. 79-18345 Filed 6-12-79; 8:45 am]

BILLING CODE 4210-22-M

DEPARTMENT OF THE INTERIOR**Bureau of Land Management****Advance Notice of Intent to Call for Expressions of Interest in Coal Leasing**

AGENCY: Bureau of Land Management, Interior.

ACTION: Advance Notice of Intent to Call for Expressions of Interest in Coal Leasing.

SUMMARY: On June 4, 1979, the Secretary of the Interior announced the approval of a Federal coal management program. The Department will issue regulations that reflect the Secretary's decision. Supplements to selected management framework plans (MFP) (discussed in 43 FR 57662-57670, 44 FR 21380, and 44 FR 2887) will now be completed in final form, in accordance with the final criteria for assessing lands unsuitable for coal leasing chosen by the Secretary.

The purpose of this advance notice is to give parties who may wish to submit expressions of interest in coal leasing an opportunity to get on mailing lists for information that will help them prepare formal expressions of interest in coal leasing in the areas identified as acceptable for further consideration.

DATES: By July 10, 1979, at the latest, the Department of the Interior will publish, in the Federal Register, and in at least one newspaper of general circulation in each affected State, a call for expressions of interest in coal leasing within areas identified as acceptable for further consideration for coal leasing in

the final Hanna (Wyoming), Overland (Wyoming), and Williams Fork (Colorado) MFP supplements. Expressions of interest under this call may be submitted until August 24, 1979.

A call for expressions of interest for areas acceptable for further consideration for coal leasing within the area covered by the Northern Alabama land use analysis, and the San Rafael and Wattis MFP areas of Utah, will be published in early August 1979. Expressions of interest for these areas will be received for sixty days thereafter.

ADDRESS: Requests for specific information and maps of areas acceptable for further consideration for coal leasing may be submitted, in advance of formal publication of calls for expressions of interest, to the following State Directors:

Dale Andrus, State Director Colorado, Room 700 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Telephone (303) 837-4325.

Lowell J. Udy, Director, Eastern States, 7981 Eastern Avenue, Silver Spring, Maryland 20910. Telephone (301) 427-7500.

Paul L. Howard, State Director Utah, University Club Building, 136 South Temple, Salt Lake City, Utah 84111. Telephone (801) 524-5311.

Daniel P. Baker, State Director Wyoming, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001. Telephone (307) 778-2220.

FOR FURTHER INFORMATION CONTACT: Robert Moore, Director, Office of Coal Management (202) 343-4636.

SUPPLEMENTARY INFORMATION: In order to speed the exchange of necessary information between the Bureau of Land Management and parties interested in leasing coal, the Department of the Interior is inviting interested parties to submit, in writing, prior to formal calls for expressions of interest, requests for maps and other detailed information on areas found acceptable for further consideration for coal leasing in the final MFP supplements. Such requests may be submitted to the BLM State Directors in the affected States, where they will be kept on file until the formal calls for expressions of interest in coal leasing are published. At those times, maps and other pertinent information needed by parties who wish to submit expressions of interest will automatically be sent to those persons who have filed such requests. Failure to submit an advance request will not preclude the acceptance of any expression of interest received by the BLM within the specified period of time.

This invitation facilitates the timely receipt of relevant information by

interested parties. Requests for information should indicate the general geographical area(s) for which interested parties anticipate submitting expressions of interest, and the name and address of interested parties. The first two calls for expressions of interest will be limited to areas acceptable for further consideration for coal leasing within the area covered by the Northern Alabama land use analysis and the following MFP areas: Williams Fork (Colorado), San Rafael (Utah), Wattis (Utah), Overland (Wyoming), and Hanna (Wyoming).

June 8, 1979.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

[FR Doc. 79-18421 Filed 6-12-79; 8:45 am]

BILLING CODE 4310-84-M

[AA-6982-A through AA-6982-B]**Alaska Native Claims Selection**

On May 6 and December 12, 1974, Kake Tribal Corporation, for the Native village of Kake, filed selection applications AA-6982-A and AA-6982-B, respectively, under the provisions of Sec. 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 706; 43 U.S.C. 1601, 1615(b) (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Kake, Alaska.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 16(b) of ANCSA, aggregating 21,712.89 acres, is considered proper for acquisition by Kake Tribal Corporation and is hereby approved for conveyance pursuant to Sec. 14(b) of ANCSA.

Lot 2 of U.S. Survey 3852, Alaska, townsite elimination from Tongass National Forest, situate at Kake, Alaska.

Containing 2.23 acres.

Copper River Meridian, Alaska (Surveyed)

T. 55 S., R. 72 E.

Sec. 14, Lot 1;

Sec. 22, Lots 1, 2, and 3;

Sec. 23, Lots 1 to 5, inclusive, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ S $\frac{1}{2}$;

Sec. 26;

Sec. 27, Lots 1 to 9, inclusive, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;

Sec. 29, Lots 1 to 5, inclusive, S $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 31, Lots 1 to 9, inclusive, E½SE¼;
 Sec. 32, Lot 1, NE¼, E½NW¼,
 SW¼NW¼, S½;
 Secs. 33, 34, and 35.

Containing 4,424.25 acres.

T. 56 S., R. 72 E.

Secs. 1 to 5, inclusive;
 Sec. 6, Lots 1 to 6, inclusive, NE¼NE¼;
 Sec. 7, Lots 1 to 8, inclusive, E½SE¼;
 Secs. 8 to 16, inclusive;
 Sec. 17, Lot 1, N½, N½SW¼, SE¼SW¼,
 SE¼;
 Sec. 18, Lots 1 to 6, inclusive, E½NE¼,
 NW¼NE¼, NE¼NW¼;
 Sec. 20, Lots 1 to 5, inclusive, N½NE¼,
 SE¼NE¼, NE¼NW¼;
 Sec. 21, Lots 1 and 2, N½, NE¼SW¼,
 SE¼;
 Secs. 22 to 26, inclusive;
 Sec. 27, Lot 1, N½, E½SW¼, NW¼SW¼,
 SE¼;
 Sec. 28, Lots 1 to 4, inclusive, NE¼NE¼;
 Sec. 32, Lots 1 and 2;
 Sec. 33, Lots 1 and 2;
 Sec. 34, Lots 1 to 4, inclusive, NE¼NE¼;
 Sec. 35, Lots 1 to 9, inclusive, N½;
 Sec. 36, Lots 1 to 12, inclusive, N½.

Containing 16,654.61 acres.

T. 56 S., R. 73 E.

Sec. 6, Lots 1 to 4, inclusive, E½, E½W½.

Containing 631.80 acres.

Aggregating 21,712.89 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (1976));

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (1976)), the following public easement, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA-6982-EE, is reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for this type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 Gross Vehicle Weight (GVW)).

(EIN 6 E) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 27, T. 55 S., R. 72 E., Copper River Meridian, westerly to isolated public lands in Sec. 28, T. 55 S., R. 72 E., Copper River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1976))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (1976)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

2. The following third-party interests, if valid, created and identified by the U.S. Forest Service, as provided by Sec. 14(g) of ANCSA:

a. A special use permit issued September 9, 1942, to the Town of Kake for watershed purposes covering sixty (60) acres in Sec. 35, T. 56 S., R. 72 E., Copper River Meridian.

b. A special use permit issued June 15, 1970, to the City of Kake for an existing cat road ten (10) feet wide and 3,600 feet long extending from the National Forest boundary to a staging area below the Gunnuk Creek dam, covering 0.68 miles in Sec. 35, T. 56 S., R. 72 E., Copper River Meridian.

c. A special use permit issued June 15, 1970, to the City of Kake for a water transmission line from permittee's dam located on Gunnuk Creek Kupreanof Island, in a southerly direction to the National Forest boundary, and also included are a staging area adjacent to the dam site and a site for a water tank and chlorinator covering 3.3 acres and 3,235 linear feet of pipeline, a 100,000 gallon redwood water tank and a 12 x 16 ft. chlorinator surrounded by a fence, in Sec. 35, T. 56 S., R. 72 E., Copper River Meridian.

3. Requirements of Sec. 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 715; 43 U.S.C. 1601, 1621(k) (1976)), that, until December 18, 1983, the portion of the above-described lands located within the boundaries of a national forest shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands;

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of

December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (1976)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section, except as provided by the Act of October 20, 1978 (P.L. 95-487, 92 Stat. 1635);

5. A right-of-way, 20 feet in width, AA-5851, for water pipeline purposes, granted to the City of Kake pursuant to the Act of February 15, 1901 (31 Stat. 790, 43 U.S.C. 959), as to lot 2 of U.S. Survey 3852.

6. Power project 2432, if valid, and the right of the permittee or licensee, if any, to enter upon, occupy and use any or all of the lands within the project in Secs. 34, 35 and 36, T. 56 S., R. 72 E., Copper River Meridian, subject to the conditions and limitations of any permit or license issued under the Federal Water Power Act of June 10, 1920, 41 Stat. 1075, as amended (16 U.S.C. 818).

Kake Tribal Corporation is entitled to conveyance of 23,040 acres of land selected pursuant to Sec. 16(b) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is 21,712.89 acres. The remaining entitlement of approximately 1,327.11 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of NACSA, conveyance of the subsurface estate of the lands described above shall be granted to Sealaska Corporation when conveyance is granted to Kake Tribal Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Southeast Alaska Empire (Juneau). Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to

sign the return receipt shall have until July 13, 1979 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Kake Tribal Corporation, P.O. Box 263, Kake, Alaska 99830.

Sealaska Corporation, One Sealaska Plaza, Suite 400, Juneau, Alaska 99801.

Sue Wolf,
Chief, Branch of Adjudication.

[FR Doc. 79-18381 Filed 6-12-79; 8:45 am]

BILLING CODE 4310-84-M

[M 40645]

Montana; Proposed Withdrawal of Lands

June 4, 1979.

On May 18, 1979, the Deputy Assistant Secretary, Land and Water Resources, granted the Bureau of Land Management permission to file an application, Serial No. M 40645, for the withdrawal of the following described lands from location and entry under the general mining laws, 30 U.S.C., Chapter 2, subject to valid existing rights:

Principal Meridian, Montana.

T. 8 S., R. 11 W.,

Sec. 5, Lot 8;

Sec. 6, Lots 6, 7, 8, 9, and 11;

Sec. 7, Lots 1, 2, 3, E½ Lot 4, 6, 7, 8, E½ Lot 10, and NE¼NW¼SE¼; and

Sec. 8, Lot 5.

The area described contains 305 acres of public lands in Beaverhead County, Montana.

The applicant desires the withdrawal to protect the lands in the Bannack Historic District to insure the integrity of the District until the Bureau's planning efforts are completed.

On or before July 15, 1979, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing in connection with the withdrawal is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below by July 15, 1979. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also review the application to insure that the area to be withdrawn is the minimum essential to meet the desired needs and to provide for the maximum utilization of the lands.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested. The determination of the Secretary on the application will be published in the Federal Register. A separate notice will be sent to each interested party of the record.

For a period of 2 years from the date of publication of this notice in the Federal Register, the lands will be segregated from location and entry as specified above unless the application is rejected or the withdrawal is approved prior to that date.

All communications in connection with this withdrawal should be addressed to the Bureau of Land Management, Department of the Interior, Montana State Office, P.O. Box 30157, Billings, Montana 59107.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-18370 Filed 6-12-79; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Land Management [U-910] 4310-84 Utah, Initial Wilderness Inventory; Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public meeting will be held to receive comments concerning the Utah BLM State Director's proposals on the initial wilderness inventory of BLM-managed public lands in Utah. A 90-day public comment period began April 4, 1979 and ends July 2, 1979. Notice concerning these proposals was published in the Federal Register March 22, 1979.

Public Meeting—Salt Lake City, June 21, Suite D, Salt Palace, 2 p.m. and 7 p.m.

Written and oral comments will be accepted at the meeting. People wishing to make oral comments at the meeting should contact the BLM state office (801-524-4227) by June 20. Those who cannot attend the meeting may address written comments before July 2 to the State Director, Attention—Wilderness, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: June 5, 1979.

Gary F. George,
Acting State Director.

[FR Doc. 79-18292 Filed 6-12-79; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Environmental Impact Statement; Scoping Meeting

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that a meeting of all affected agencies and interested individuals will be held to help determine and refine the scope of an environmental impact statement for the Endangered Species Program.

Due to coincidence with issuance of the proposed and final new NEPA regulations, drafting of the EIS has reached an advanced stage without a scoping meeting. To comply with the new NEPA regulations which become effective July 30, 1979, and to provide the guidance and perspective of a broad range of affected groups, the Service invites the participation of all individuals who can provide constructive criticism and suggestions.

DATES: Tuesday, Wednesday, and Thursday, July 17, 18, and 19, 1979, at 9:00 a.m. (The scoping meeting will be shortened as progress warrants).

ADDRESS: Room 7000 A and B, Main Interior Building, 19th & C Streets, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Harold J. O'Connor, Associate Director for Federal Assistance, United States

Department of the Interior, Fish and Wildlife Service, (202) 343-4646.

SUPPLEMENTARY INFORMATION: For the purposes of this impact statement, the action or source of the impacts is the current Endangered Species Program or proposed alternative. The need or purpose for the action is the perpetuation of species diversity as it serves the interest and welfare of mankind. Among the alternatives to the current program proposed to meet the stated need are (1) a no action or no program alternative (prescribed by the NEPA regulations) and (2) repeal of Section 7 (Interagency Cooperation). Positive effects of the program are predominately ecological. Negative impacts of the action are primarily economic. These effects will fall directly on plants and animals threatened with extinction which are the intended beneficiaries of the action and indirectly on the elements of human society which reap economic, social, and aesthetic benefits.

Impacts also fall on (1) the various trade environments which exploit wild plants and animals, (2) on recreational activities in which plants and animals may be collected, (3) on plant and animal control measures in which target species may become the endangered species or (4) resource development programs which affect plant and animal habitat.

All who wish to attend this meeting are asked to advise Mr. O'Connor at the address or phone number above by July 10, 1979.

This notice of review was prepared by Clifford E. Ruhr, Office of Endangered Species (703/235-1726).

Dated: June 7, 1979.

Lynn A. Greenwalt,
Director, Fish and Wildlife Service.

[FR Doc. 79-16353 Filed 6-12-79; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Outer Continental Shelf (OCS) Order No. 5, Failure and Inventory Reporting System Requirements

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Solicitation of comments on the content of the U.S. Geological Survey failure reports.

SUMMARY: By Notice in the Federal Register, May 17, 1979, Vol. 44, No. 97, the Geological Survey announced the solicitation of comments on the content of the Failure and Inventory Reporting

System reports generated by the U.S. Geological Survey.

This Federal Register Notice failed to specify a commenting period. Therefore, the first paragraph of the stated Notice is amended by adding the following: "The comment period is 45 days. All comments received by July 1, 1979, will be considered."

Our original intent was to allow 30 days for the commenting period. Because of our omission in stating this in the Notice of May 17, 1979, we are extending the commenting period to 45 days to alleviate any inconvenience incurred.

DATES: Comments must be received on or before July 1, 1979.

ADDRESSES: Send comments to: U.S. Geological Survey, National Center, Mail Stop 620, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Mr. Richard B. Krah, U.S. Geological Survey, National Center, Mail Stop 620, Reston, Virginia 22092, (703) 860-7531.

Dated: June 5, 1979.

Henry W. Coulter,
Acting Director.

[FR Doc. 79-16420 Filed 6-12-79; 8:45 am]

BILLING CODE 4310-31-M

INTERNATIONAL COMMUNICATION AGENCY

National Environmental Policy Act; Agency Implementing Procedures

June 8, 1979.

AGENCY: International Communication Agency.

ACTION: Proposed Agency internal implementing procedures.

SUMMARY: USICA proposes to adopt internal procedures to implement the National Environmental Policy Act (NEPA) in accordance with the regulations of the Council on Environmental Quality (CEQ) 43 FR 55978, November 19, 1978.

DATE: Comments or suggestions should be submitted in writing on or before July 10, 1979.

ADDRESS: Comments should be addressed to Mr. R. Wallace Stuart, Assistant General Counsel, Office of the General Counsel, International Communication Agency, Washington, D.C. 20547

Pursuant to the provisions of the National Environmental Policy Act of 1969 (Pub. L. 91-190), as amended, the International Communication Agency has revised its internal procedures to implement the provisions therein for environmental review of major agency

actions. These implementing procedures are for intra-agency uses and will not therefore be codified to the Code of Federal Regulations. The implementing procedures follow:

II MOA, Sec. 2000 *et seq.*

2000 Environmental Review of Agency Actions

2000.1 Background

(a) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) (NEPA) establishes national policies and goals for the protection of the environment. Section 102(2) of the NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all Federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

(b) Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations (40 CFR Part 1500-1508) on November 29, 1978, which are binding on all Federal agencies as of July 30, 1979. These regulations provide that each Federal agency shall, as necessary, adopt implementing procedures to supplement the regulation. Section 1507.3(b) of the NEPA regulations identifies those sections of the regulations which must be addressed in agency procedures.

2000.2 Purpose

This section establishes guidelines and procedures pursuant to the National Environmental Policy Act of 1969 (P.L. 91-190), as amended (NEPA), and regulations promulgated by the Council on Environmental Quality (CEQ), 43 FR 55978-56007, November 29, 1978 (40 CFR Parts 1500-1508). The CEQ regulations (40 CFR 1500) are the basic regulations to be followed in all phases of the Agency's NEPA process with respect to decisions concerning proposed Agency projects.

2000.3 Coverage

These regulations apply to all major domestic activities of the Agency which may have a significant impact upon the quality of the human environment. These implementing procedures are effective July 30, 1979. For guidance

concerning the consideration of environmental effects of Agency program activities abroad, see Executive Order 12114, January 4, 1979, "Environmental Effects Abroad of Major Federal Action" and Agency Implementing Procedures issued pursuant thereto.

2001 General

The Associate Director for Management, or his designee (MGT), is the responsible officer for assuring compliance with NEPA and the NEPA regulations (40 CFR 1500 *et seq.*). MGT must be advised by the responsible Agency element, as early in the decisionmaking process as practicable, of any major Agency proposal which may significantly affect the environment, or whose effects on the human environment may be controversial in nature. The Office of the General Counsel (GC) shall advise MGT with respect to, and shall review action, decisions, and documentation required by, the NEPA process.

2002 Applications From private Applicants or Other Non-Federal Entities Which May Involve the Agency.

The International Communication Agency performs no functions which involve the issuance of licenses or permits to applicants from the private sector; therefore, implementing procedures related to those functions as required by 40 CFR § 1507.3(b) are unnecessary.

2003 Responsibilities

a. *Associate Director for Management.*—1. The Associate Director for Management (MGT) is the Agency officer responsible for compliance with NEPA, NEPA Regulations, and these Agency implementing procedures, for Agency activities or projects which may be affected by the NEPA process.

2. The Associate Director for Management may delegate his authority with respect to the Agency's NEPA process.

3. The Associate Director for Management may, as appropriate, require Agency officers and employees to assist in the carrying out of his NEPA process responsibilities.

b. *General Counsel.*—The General Counsel (GC) shall provide necessary advice, assistance, review, and consultation to the Associate Director for Management, or his designee, in implementing the Agency's NEPA process with respect to a proposed project.

2004 Agency Procedures to Determine Whether To Prepare an Environmental Assessment or an Environmental Impact Statement

Few, if any, of the Agency's activities, with the exception of construction or similar activities at domestic VOA relay or transmitter stations, will have any effect on the quality of the human environment. Normally only large scale construction may be expected to involve the NEPA process. The following guidance is provided, however, for those activities which could require environmental review:

a. *Initial determination of need for an environmental assessment.*—In accordance with 40 CFR 1501.3, the Agency element head having responsibility for a proposed Agency project or activity (or private project or activity in which the Agency may have a significant involvement) which may reasonably be foreseen to have an impact on the quality of the human environment shall, prior to the commitment of significant Agency resources, consult with MGT concerning the need for the preparation of an environmental assessment.

b. *Initial determination of need for an environmental impact statement.*—The Associate Director for Management, or his designee, with respect to any significant Agency action which may affect the domestic human environment, shall, as early in the decisionmaking process as practicable and with the advice and assistance of GC, determine whether the action is one with respect to which an environmental impact statement normally is, or is not, prepared, referring to Section 2005.

2005 Typical Classes of Action for Similar Treatment Under NEPA

Section 1507.3(b)(2) of the regulations requires agencies to establish three typical classes of action for similar treatment under NEPA. These classes of action and specific criteria therefor are set forth in 2005.1, 2005.2, and 2005.3.

2005.1 Actions Normally Requiring Environmental Impact Statements

(1) *Agency Actions Which Normally Require An Environmental Impact Statement To Be Prepared.*—a. Construction of significant proportion, e.g., an entire transmitting or relay station or major subcomponent thereof which requires the acquisition of new real estate, and which has a significant impact on the environment.

b. Significant use of herbicides or pesticides which has a significant impact on the environment.

c. Major clearing of forested or wetlands area to accommodate construction which has a significant impact on the environment.

d. Agency acquisition or disposal of real property by lease, assignment, purchase, or otherwise which has a significant impact on the environment.

e. Major diversion or other interference with natural water courses which has a significant impact on the environment.

f. Major use of any chemical agent which has a significant impact on the environment.

g. Installation of large scale diesel-powered electric generators which has a significant impact on the environment.

(2) *Specific Criteria For Determining Other Classes Of Agency Action Which Normally Do Require Environmental Impact Statements.*—a. Any major activity which will directly affect or alter any part of the environment (including animal and plant life, air, water, land usage, noise levels, or aesthetics) to a significant degree (whether beneficially or adversely).

b. Any major Agency action which may reasonably be foreseen to affect or alter indirectly the physical environment or any aspect thereof, significantly.

c. Issuance of a policy or regulation which may reasonably be foreseen to have a direct or indirect significant effect (in the carrying out thereof) on the human environment (other than purely economic or socioeconomic).

2005.2 Actions Normally Requiring Environmental Assessment But Not Necessarily Environmental Impact Statements

(1) *Specific Criteria For Identifying Typical Classes Of Agency Action Which Normally Require An Environmental Assessment But Not Necessarily Environmental Impact Statements.*—The following criteria are to be used by MGT as a guide in making the initial determination whether an environmental assessment is needed:

(i) Activities, such as construction, clearing of forested or wetlands areas, use of herbicides or pesticides, which entail only a moderate degree of Agency resource involvement or affect a relatively limited site, but as to which a direct, significant environmental effect may reasonably be foreseen.

(ii) Installation of electrical transmission lines of a significant physical size, including supporting structures, if accompanied by reasonably foreseeable environmental effects.

(iii) Proposed Agency projects or activities which, although environmental

impact is only remotely probable, are or may be the object of controversy or criticism by special interest groups.

(iv) Major projects or activities with respect to which the environmental effects are virtually unknown, but which could reasonably be suspected of being significant in some respect.

(2) With respect to any proposed projects or activities for which the Agency determines at the outset to prepare an environmental impact statement, no environmental assessment is required.

(3) Major proposals or activities which may significantly affect the quality of the domestic human environment, and which are not covered by § 2005.1 or § 2005.3 or which may be controversial, normally shall have an environmental assessment prepared. Such an assessment will be the basis for a "no significant impact" finding or a decision to prepare an environmental impact statement.

2005.3 Actions Normally Not Requiring Environmental Assessment or Environmental Impact Statements (Categorical Exclusions)

(1) Communication between the Agency and private individuals, Government or non-Governmental entities, or other firms or persons in connection with the implementation or planning of Agency programs, domestically or abroad. This class of activity is categorically excluded because it involves primarily interpersonal contact, oral or written, in implementation of plans for conducting programs abroad, exchanges or activities such as exhibits, participation in exhibitions, English teaching, magazine or other periodical distribution or production, and Voice of America operations overseas. Such contact has no significant impact upon the quality of the domestic human environment.

(2) Domestic planning and implementation (including acquisition or procurement) of the following types of specific Agency (overseas) programs:

a. Voice of America operations (broadcasting, operation of transmitter and relay stations, but excluding domestic construction);

b. participation in international fairs, exhibits and expositions;

c. Fulbright exchange programs (educational and cultural) and agency relations with grantees (students, professors, etc.) or such contract firms as assist in the selection, payment and placement of individuals under these programs;

d. English teaching program;

e. film and VTR production, acquisition, and distribution;

f. magazine (or other periodical) production or distribution;

g. cooperation with binational centers (including the making of grants);

h. operations of USICA centers or libraries;

i. international visitors program;

j. international speakers program; and

k. operation of the Wireless File.

The above class of activities is categorically excluded because the planning and implementation of those activities as carried out by USICA involve no significant impact on the quality of the domestic human environment. Such activities consist generally of contracting for exhibits, agency operation of printing facilities, shipment overseas from agency warehouses, program planning and carrying out studio work in connection with Voice of America broadcasts.

The exchange programs involve selection of scholars and cultural exchange materials to implement educational and cultural exchange programs with other countries and may require planning for travel of individuals in those programs. Other activities in connection with the overseas Agency programs include staffing functions at the Agency's offices in Washington. None of the above activities have significant impact on the quality of the human environment, and they are therefore categorically excluded from the need for an environmental review.

(3) Agency operation and maintenance of existing facilities (domestic) at current levels. Such current levels of operation and maintenance of existing facilities without significant change in degree or function do not have a significant impact on the quality of the human environment.

(4) Relocation, or actions forcing the relocation, of personnel and equipment. Such relocations do not constitute a major federal action affecting the quality of the human environment. Moreover, the effect of such relocation on the sending and receiving areas would be one of economic or socioeconomic impact, not warranting the preparation of an environmental impact statement or other review.

(5) Disposal of surplus personal property. This class of activity contemplates the sale or disposal of items of office furniture and equipment, household furniture, radio station equipment and material. Such activities do not significantly affect the quality of the environment.

(6) New and replacement construction on existing installations or locations when new real estate is not required, existing transportation and utilities are not appreciably affected, no significant change in the overall appearance of the installation occurs when viewed from outside the property boundary, and no appreciable increase in noise or air pollution occurs.

(7) MGT shall determine whether an EIS or an environmental assessment is required where:

(i) a proposal for Agency action is not covered by one of the typical classes of action above; or

(ii) for actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

2006 Agency Decisionmaking Procedures—Environmental Review.

2006.1 General

The Agency NEPA process (environmental review, etc.) applies to any proposed major Agency action (including substantial involvement in proposed projects or activities submitted for consideration by private firms or persons or other non-U.S. Governmental entities) which is likely to have a substantial effect on the (domestic) human environment.

For USICA, few, if any, programs or program related activities will have any effect on the quality of the domestic environment. By statute, virtually all Agency programs which could conceivably affect the environment are to be carried out abroad. Such programs are contained within the boundaries of the individual countries in which the Agency conducts its activities with the exception of international radio broadcasts, which do not affect the environment. Normally, only construction or certain activities at domestic VOA relay or transmitter stations may be expected to trigger the Agency's NEPA process.

2006.2 Procedures

a. Any Agency officer (project officer) who proposes a major Agency action or project, or who receives a proposal which may substantially involve the Agency in a major private activity or project, shall consider whether the project is likely to have a significant effect (beneficial or adverse) on the quality of the human environment. If the determination is affirmative or questionable, the project officer shall promptly so advise the Associate Director for Management. In making the

initial informal determination above, the project officer may consult with the Office of the General Counsel if there is any reasonable question as to the potential environmental effect of a proposed project. In all cases involving new construction or other significant direct modification of the environment (including animal or plant life, air, water, aesthetics, land or utility usage, or noise level) the project officer shall notify MGT that the project is under consideration and of the nature of any foreseeable environmental effect.

b. The Associate Director for Management, or his designee, with the advice and assistance of GC, shall insure that the Agency's NEPA process is initiated at the earliest practicable time before a final decision is made to recommend the proposed project or activity in question to the Director, USICA, for final approval to carry out the project or activity. Normally, in the case of a major Federal action involving construction within the United States or its territories, the NEPA process should be initiated contemporaneously with a feasibility or similar study, made prior to the commitment of significant Federal resources, but in any event the NEPA process should begin at such time that any alternative proposals resulting from an environmental review may be effectively considered by Agency decisionmakers.

c. *Environmental materials available to decisionmakers.*—(1) The NEPA procedure is designed to provide agency decisionmakers with the analyses resulting from environmental review at a time when such analyses will be most valuable and useful to them in deciding upon proposals for Agency activities and projects. With respect to those activities which require environmental review, an environmental assessment shall have been prepared and made available to the responsible Area Director or Associate Director for consideration as a part of the decision whether such officer should recommend approval of a proposed project or activity to the Director, USICA. In the event that the Associate Director or Area Director is the final deciding officer regarding implementation of a proposed project, that officer shall consider the entire administrative record concerning environmental matters (including the final environmental impact statement (if any) and any necessary supplements) in reaching a decision.

(2) With respect to those proposed projects or activities submitted to the Director, USICA, for approval for implementation, an environmental

assessment or, if appropriate, a final and a supplemental environmental impact statement (if any), conforming to NEPA Regulations, shall be forwarded for consideration, if such environmental review documents are required by law or regulations.

d. *Proposals for Legislation.*—(1) *General.* NEPA requires an environmental impact statement on recommendations or reports on proposals for legislation significantly affecting the quality of the human environment.

(2) *Procedure.* As the Agency office responsible for coordinating the Agency's Congressional relations, the Office of Congressional and Public Liaison (CPL) shall, with the advice of GC, assist MGT in carrying out any required NEPA process concerning such proposed legislation.

2006.3 Administrative Record of Decision

a. GC shall advise MGT in compiling, and shall review, the administrative record related to proposals involving environmental review. This record shall be considered at appropriate stages of the decisionmaking process by Agency decisionmakers. The administrative record shall be available to the public.

b. The decisionmaker (Director, Associate Director, or Area Director) shall, in cases where environmental review is required, consider only those choices which have been discussed in the administrative environmental record, and which have been made available to the public to the extent required by the NEPA regulations (40 CFR Part 1500).

2007 Public Involvement in Agency Decisionmaking Processes Involving Environmental Concerns

a. The Associate Director of Management, or his designee, when involved in the consideration of any proposed Agency action which may significantly affect the environment, with the advice and review of GC, shall follow the requirements of 40 CFR 1506.6, concerning the involvement of the public in the decisionmaking process. MGT shall insure that copies of the administrative record, if any, related to the environmental review associated with Agency projects are available to the Congressional and Public Liaison Office for purposes of (b) below. MGT shall maintain a register of projects involving environmental review and indicating the status of the administrative environmental record of such projects.

b. *Congressional and Public Liaison Office.*—Interested persons may obtain information concerning the status of, and environmental and other documentation involved in, the Agency's decisionmaking process concerning a particular proposal (which is subject to environmental review) by sending a written request for such specifically identified information to the Office of Congressional and Public Liaison, International Communication Agency, Washington, D.C. 20547; Phone (202) 724-0103.

Dated: June 8, 1979.

Charles W. Bray III,
Acting Director, International
Communication Agency.

[FR Doc. 79-18432 Filed 6-12-79; 8:45 am]

BILLING CODE 6230-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-42]

Certain Electric Slow Cookers; Notice of the Commission Procedure on the Presiding Officer's Recommended Determination, Relief, Bonding, and the Public Interest, and of the Schedule for Filing Written Submissions

Recommendation of "violation" issued

In connection with this investigation by the U.S. International Trade Commission under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the importation and sale of certain electric slow cookers in the United States, the presiding officer recommended on May 9, 1979, that the Commission—

(1) Grant the joint motion for summary determination and

(2) Determine that there is a violation of section 337. The presiding officer certified to the Commission for its consideration the evidentiary record, which had been augmented pursuant to the Commission's order to remand of February 9, 1979. Interested persons may obtain copies of the presiding officer's recommended determination of May 9, 1979 (and all other public documents), by contacting the office of the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523-0161.

Requests for oral argument and oral presentation

At present, no oral argument is planned with respect to the recommended determination of the

presiding officer. Similarly, no oral presentation is planned with respect to the subject matter of § 210.14(a) of the Commission's Rules of Practice and Procedure (19 CFR 210.14(a)) concerning relief, bonding, and the public-interest factors set forth in section 337 (d), (f) and (g)(3) of the Tariff Act of 1930, as amended, which the Commission is to consider in the event it determines that there should be relief. However, the Commission will consider written requests for an oral argument or an oral presentation if they are received by the Secretary to the Commission no later than the close of business (5:15 p.m., e.d.t.), on June 28, 1979.

Written submissions to the Commission

The Commission requests that written submissions of three types be filed no later than the close of business on June 28, 1979:

1. *Briefs on the presiding officer's recommended determination.* Parties to the Commission's investigation, interested agencies, and the Commission investigative staff are encouraged to file briefs concerning exceptions to the presiding officer's recommended determination. Briefs must be served on all parties of record to the Commission's investigation on or before the date they are filed with the Secretary. Statements made in briefs should be supported by references to the record. Persons with the same positions are encouraged to consolidate their briefs, if possible.

2. *Written comments and information concerning relief, bonding, and the public interest.* Parties to the Commission's investigation, interested agencies, public-interest groups, and any other interested members of the public are encouraged to file written comments and information concerning relief, bonding, and the public interest. These submissions should include a proposed remedy, a proposed determination of bonding, and a discussion of the effect of the proposals on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers. These written submissions will be very useful to the Commission if it determines that there is a violation of section 337 and that relief should be granted.

3. *Requests for oral argument and oral presentation.* Written requests that the Commission hold oral argument and/or oral presentation must be filed with the Secretary to the Commission as described above.

Additional information

The original and 19 true copies of all briefs, written comments, and any written request must be filed with the Secretary to the Commission.

Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request *in camera* treatment. Such request should be directed to the Chairman of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept such submission in confidence or return it. All nonconfidential written submissions will be open to public inspection at the Secretary's Office.

Notice of the Commission's investigation was published in the Federal Register of February 9, 1978 (43 F.R. 5590).

By order of the Commission.

Issued: June 6, 1979.

Kenneth R. Mason,
Secretary.

[FR Doc. 79-18424 Filed 6-12-79; 8:45 am]
BILLING CODE 7020-02-M

[AA1921-204 and AA1921-205]

Kraft Condenser Paper From Finland and France; Investigations and Hearing

The United States International Trade Commission (Commission) received advice from the Department of the Treasury (Treasury) on May 30, 1979, that kraft condenser paper from Finland and France, provided for in items 252.40 and 256.30 of the Tariff Schedules of the United States, is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Treasury indicated that, for the purpose of its investigations, kraft condenser paper means capacitor tissue or condenser paper containing 80 percent or more by weight of chemical sulphate or soda wood pulp based on total fiber content. Accordingly, the Commission on June 5, 1979, instituted investigations Nos. AA1921-204 and AA1921-205, under section 201(a) of the act, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigations will be held in Hartford, Conn., on Tuesday, July 24, 1979, at 10:00 a.m., e.d.t. The hearing will be held in Room 509, Internal Revenue Service Building, 450

Main Street, Hartford, Conn. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(d)), should be received in writing in the office of the Secretary to the Commission not later than noon Thursday, July 19, 1979.

Written statements. Interested parties may submit statements in writing in lieu of, and in addition to, appearance at the public hearing. A signed original and nineteen true copies of such statements should be submitted. To be assured of their being given due consideration by the Commission, such statements should be received not later than Friday, August 3, 1979.

Issued: June 6, 1979.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 79-18425 Filed 6-12-79; 8:45 am]
BILLING CODE 7020-02-M

NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

Meeting; correction

June 7, 1979

This is to advise that there will be a two-day meeting of the National Advisory Council on Economic Opportunity on June 21-22, 1979 NOT June 22-23, 1979 as previously published. All other information remains the same.

Walter B. Quetsch,
Executive Director.

[FR Doc. 79-10441 Filed 6-12-79; 8:45 am]
BILLING CODE 6820-41-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Evaluation of Licensee Event Reports; Meeting

The ACRS Subcommittee on Evaluation of Licensee Event Reports will hold an open meeting on June 28 and 29, 1979, in Room 1046, 1717 H Street, NW., Washington, D.C. 20555 to continue its review of Licensee Event Reports (LERs). Notice of this meeting was published on May 24, 1979 (44 FR 30177).

In accordance with the procedures outlined in the Federal Register on October 4, 1978 (43 FR 45926), oral or

written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Thursday, June 28 and Friday, June 29, 1979 8:30 a.m. until the conclusion of business each day.

The Subcommittee will meet with any of its consultants who may be present, and with representatives of the NRC Staff and their consultants, to continue its review of LERs submitted during the period 1976-1978.

Also, one or more open Executive Sessions will be held to discuss LERs and a planned Subcommittee report to the full Committee.

In addition, the Subcommittee will meet with representatives of several utilities in order to obtain information on the procedures used in filing an LER with the NRC and in following up on the event within the utility organization.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Andrew L. Bates (telephone 202/634-3267), between 8:15 a.m. and 5:00 p.m., EDT.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Dated: June 8, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-18354 Filed 6-12-79; 8:45 am]

BILLING CODE 7590-01-M

unable to continue his service on this Board.

Accordingly, Andrew C. Goodhope, Esq., whose address is 3320 Estelle Terrace, Wheaton, Maryland 20906, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with Section 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland this 7th day of June 1979.

Robert M. Lazo,

Acting Chairman Atomic Safety and Licensing Board Panel.

[FR Doc. 79-18356 Filed 6-12-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8722]

Brush Wellman Inc.; Negative Declaration Regarding Issuance of Source Material License for Operation of Delta Facility in Millard County, Utah

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuing a source material license for a uranium recovery operation from barren beryllium mill waste streams by Brush Wellman Incorporated at their Delta facility in Millard County, Utah.

The Commission's Division of Waste Management has prepared an environmental/safety impact appraisal for the proposed operation. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted for there will be no significant environmental impact attributable to the action. The environmental/safety impact appraisal is available for public inspection and copying at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Silver Spring, Maryland, this 6th day of June.

For the Nuclear Regulatory Commission.

Ross A. Scarano,

Section Leader, Uranium Recovery Licensing Branch Division of Waste Management.

[FR Doc. 79-18357 Filed 6-12-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. PRM-71-5]

Chem-Nuclear Systems, Inc.; Denial of Petition for Rulemaking

The Nuclear Regulatory Commission's regulation, "Packaging of Radioactive Material For Transport and Transportation of Radioactive Material Under Certain Conditions," 10 CFR Part

71, provides a general license in 10 CFR 71.12 to persons holding a general or specific Commission license, to deliver licensed material to a carrier for transport. The licensee must have a quality assurance program whose description has been submitted to and approved by the Commission as satisfying the provisions of 10 CFR 71.51. Further, if delivery is made in a package for which a license, certificate of compliance (Form NRC-618) or other approval has been issued by the NRC or the Atomic Energy Commission, the person using the package must have a copy of the specific license, certificate of compliance, or other approval authorizing use of the package and all documents referred to in the license, certificate, or other approval, as applicable (10 CFR 71.12(b)(1)(i)). Quality assurance requirements specific to the particular package design are specified in the package approval.

The Petition

By letter dated September 24, 1977, Chem-Nuclear Systems, Inc. filed with the Commission a petition for rule making (PRM-71-5) requesting that the Commission exempt the package owner from the requirements in 10 CFR Part 71 that the package owner furnish the named user with the safety analysis report and blueprints of a particular container or package if (1) a user of the NRC approved container or package is named a user; (2) the named user is supplied with a copy of the license or certificate; and, (3) the named user is provided with specific procedures which have been developed by the owner of the container or package and filed with the NRC in accordance with the provisions of 10 CFR Part 71, Appendix E, "Quality Assurance Criteria for Shipping Packaging for Radioactive Material."

Bases for Request

The bases for the request are set out by the petitioner as follows:

a. Chem-Nuclear has been advised by NRC licensing staff that "all documents referred to in the license" would include the safety analysis report and blueprints of the particular container or package.

b. In several cases, some of the information contained in the safety analysis and blueprints is regarded by Chem-Nuclear as proprietary. For competitive reasons, Chem-Nuclear wishes to limit the furnishing of this information to instances where such information is necessary and where adequate safeguards can be imposed.

c. In all cases, the license or certificate issued by the NRC clearly

[Docket No. 50-471]

Boston Edison Co., Et Al. (Pilgrim Nuclear Generating Station, Unit 2); Reconstitution of Board

Edward Luton, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Because he is transferring to another Federal Agency, where he will serve as an Administrative Law Judge, Mr. Luton is

defines the specific conditions for use of a particular container or package. Users of containers or packages have no need for the safety analysis and blueprints. Providing the safety analysis and blueprints to the user can serve no useful purpose, but only create a large amount of additional paperwork for the owner of the container or package and adds to the risk of misuse of proprietary data.

d. The need of the users for safety information can be met thoroughly by the specific procedures developed by the owner of the container or package and filed with the NRC in accordance with the provisions of Appendix E to 10 CFR Part 71.

Request for Comments on Petition

A notice of filing of petition for rule making was published in the Federal Register on October 6, 1977 (42 FR 54475). The comment period expired December 5, 1977. No comments were received in response to the notice.

Previous Action

On August 4, 1977 (42 FR 39364), the Commission amended 10 CFR Part 71 to add new Appendix E and upgraded quality assurance requirements that are the subject of the petitioner's request.

In the preamble to the final rule, the Commission discussed package manufacturers' submission of information on specific aspects of quality assurance:

The licensee who is an applicant for the package approval provides the descriptions of quality assurance programs governing the manufacturer and use of the package. If the package is approved by the Nuclear Regulatory Commission for use in the transportation of radioactive material, a package approval is issued which incorporates the packages description and identification, its safety evaluation, and a description of the applicant's specific quality assurance provisions for design, fabrication, assembly, testing, use, and maintenance of the package.

Clearly, the requirement in a package approval for a description of the applicant's specific quality assurance provisions is in addition to, and not in substitution for, the package's safety evaluation which is based on the safety analysis report of the package design or application.

Withholding From Public Disclosure

Persons who submit to the Commission information believed to be privileged, confidential, or a trade secret are on notice (10 CFR 2.790) that it is the policy of the Commission to achieve an effective balance between legitimate concerns for protection of competitive

positions and the right of the public to be fully apprised as to the basis for and effects of licensing actions, and that it is within the discretion of the Commission to withhold such information from public disclosure.

Under this policy and as a matter of licensing practice, the NRC staff issues package approvals on the basis of safety analysis reports prepared by applicants and refers to applications that contain blueprints. As a consequence, it is the general licensees delivering licensed radioactive material to a carrier for transport under the authority of 10 CFR 71.12(b) who must assure themselves and the NRC that the subject packages are as described in the package approvals. (The NRC must exercise its regulatory authority through its general licensees who use package approvals because the NRC has no general enforcement powers over package manufacturers or package owners unless they possess and use licensed radioactive material. They would, however, be subject to 10 CFR Part 21, "Reporting of Defects and Noncompliance.") An exemption from the requirements of 10 CFR Part 71 for furnishing the safety analysis reports and blueprints as requested by the petitioner could deny general licensees information essential to the safe use of packages to deliver licensed material to carriers for transport. In addition, for the public to be assured that general licensees comply with the terms and conditions of package approvals, the public must be apprised of the information in safety analysis reports and blueprints referred to in package approvals. Therefore, these documents cannot be exempt from public disclosure.

Grounds for Denial

The Commission has given careful consideration to this petition for rule making (PRM-71-5) and has decided to deny the petition on the grounds that: (1) The requirement in a package approval for a description of the applicant's specific quality assurance provisions is in addition to, and not in substitution for, the package's safety evaluation which is based on the safety analysis report of the package design or application; and (2) The right of the public to be fully apprised as to the bases (e.g., safety analysis reports and blueprints) for licensing under 10 CFR 71.12(b) outweighs the concern of Chem-Nuclear Systems, Inc. for protection of a competitive position that may be set out in a safety analysis report or blueprint.

A copy of the petition for rule making and the Commission's letter of denial

are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Maryland this 30th day of May, 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations

[FR Doc. 79-18323 Filed 6-12-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-454; 50-455; 50-456; 50-457]

Commonwealth Edison Co.; (Byron Station, Units 1 and 2; and Braidwood Station Units 1 and 2) Construction Permit Nos. CPPR-130, CPPR-131, CPPR-132, and CPPR-133; Reconstitution of Board

Edward Luton, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Because he is transferring to another Federal Agency, where he will serve as an Administrative Law Judge, he is unable to continue his service on this Board.

Dr. Franklin C. Daiber, who was a technical member of the Board has resigned from the Atomic Safety and Licensing Board Panel, and is unable to continue his service on this Board.

Accordingly, Marshall E. Miller, Esq., is appointed Chairman of this Board and Dr. Richard F. Cole is appointed as a technical member of this Board. Their address is as follows:

Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Reconstitution of the Board in this manner is in accordance with Section 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland this 7th day of June 1979.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 79-18323 Filed 6-12-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-424, 50-425]

Georgia Power Co. (Alvin W. Vogtle Nuclear Plant, Units 1 & 2; Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated May 1, 1979, the Georgians Against Nuclear Energy (GANE) requested that the Director of Nuclear Reactor Regulation reconsider his April 13, 1979, denial of GANE's earlier petition under 10 CFR 2.206.

GANE's latest petition is being treated as a request for action under 10 CFR 2.208 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at the Burke County Library, 4th Street, Waynesboro, Georgia.

Dated at Bethesda, Maryland, this 6 day of June, 1979.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-18360 Filed 6-12-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50.263]

Northern States Power Co.; Issuance of Amendment to Provisional Operating License.

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40 to Facility Operating License No. DPR-22, issued to Northern States Power Company, which revised Technical Specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment is effective as of its date of issuance.

The amendment deletes reference to respiratory protection equipment since this item is now covered by 10 CFR 20.103 of Part 20 of the Commission's regulations.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the Commission's letter to

Northern States Power Company dated August 12, 1977 and the licensee's letter to the Commission dated September 13, 1977, (2) Amendment No. 40 to License No. DPR-22, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public document room, 1717 H Street, NW., Washington D.C. 20555, and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 5th day of June 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-18361 Filed 6-12-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 27-39]

Nuclear Engineering Co., Inc. (Sheffield, Illinois Low-Level Radioactive Waste Disposal Site); Hearing

The Nuclear Engineering Company, Inc. (NECO), has operated the Sheffield, Illinois low-level radioactive waste disposal site under License No. 13-10042-01 issued by the Nuclear Regulatory Commission. NECO filed a timely application for license renewal in August, 1968, and its license continued in effect pending final Commission action. 10 CFR 2.109. On March 8, 1979, NECO informed the Director, Nuclear Material Safety and Safeguards (NMSS), that it was unilaterally terminating its license for all activities at the Sheffield site.

On March 20, 1979, the Director, NMSS, pursuant to 10 CFR 2.202 of the Commission's regulations, served on NECO an immediately effective Order to Show Cause why it should not resume its obligations and liabilities under the license. The Director based his Order on NECO's obligation to act in a safe and responsible manner with respect to its license for receipt and possession of nuclear materials at the Sheffield site. These obligations include maintenance of site security and trenches in which low-level radioactive material is buried. NECO's abandonment of the site and consequent general failure to hold in force terms and conditions of its license

were confirmed by two on-site visits on March 9 and 16 by inspectors from the Commission's Office of Inspection and Enforcement (Region III).

On March 23, 1979, NECO filed Answer of Nuclear Engineering Company Inc. To Order to Show Cause and Demand for Hearing pursuant to 10 CFR 2.202(b). NECO, the NRC Staff, and the State of Illinois agree that resolution of the issues raised by the Order to Show Cause would be most expeditiously and efficiently handled by consolidating consideration of these issues with the Licensing Board proceeding now considering NECO's application to renew its license and its subsequent motion to withdraw that application.

10 CFR 2.202(c) provides that if the answer demands a hearing the Commission will issue an order designating the time and place of hearing. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and 10 CFR Part 2 of the Commission's regulations, notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board composed of Andrew C. Goodhope, Esq., Chairman, Dr. Linda W. Little, and Dr. Forest J. Remick.

In addition to the issues now pending before the Atomic Safety and Licensing Board it shall consider and decide:

whether NECO can unilaterally terminate License No. 13-10042-01 for activities at Sheffield without affirmative action by the Commission.

A prehearing conference shall be held by the Atomic Safety and Licensing Board at a date and place to be set by the Board to consider pertinent matters in accordance with the Commission's Rules of Practice. The date and place of the hearing will be set at or after the prehearing conference and will be noticed in the Federal Register.

Pursuant to CFR 2.705, an answer to this Notice may be filed by the Licensee not later than July 3, 1979.

The Commission authorizes an Atomic Safety and Licensing Appeal Board pursuant to 10 CFR 2.785 to exercise the authority to perform the review functions which would otherwise be exercised and performed by the Commission, subject to Commission review, as appropriate, under 10 CFR 2.786. The Appeal Board will be designated pursuant to 10 CFR 2.787 and notice as to membership will be published in the Federal Register.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

Dated at Washington, D.C. this 6th day of June, 1979.

[FR Doc. 79-18362 Filed 6-12-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-277 and 50-278]

**Philadelphia Electric Co., et al.;
Issuance of Amendment to Facility
Operating License**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 54 and 54 to Facility Operating License Nos. DPR-44 and DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3 (the facility) located in York County, Pennsylvania. The amendments are effective as of the date of issuance.

The amendments consist of a revision to the Definitions Section of the Technical Specifications to extend the specified time interval, as it relates to the frequency for performance of surveillance testing, from 12 to 18 months to coincide with the refueling cycle length.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendment dated April 30, 1979, (2) Amendment Nos. 54 and 54 to License Nos. DPR-44 and DPR-56, and (3) the Commission's letter dated June 6, 1979.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 6th day of June 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3,
Division of Operating Reactors.

[FR Doc. 79-18363 Filed 6-12-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-352, 50-353]

**Philadelphia Electric Co. (Limerick
Generating Station, Units 1 & 2),
Request for Action Pursuant to 10 CFR
2.206**

Notice is hereby given that by letter dated April 12, 1979, Frank Romano of Ambler, Pennsylvania, requested that the Commission investigate seismic effects of blasting at a quarry located near the site of the Philadelphia Electric Company's Limerick Generating Station, Units 1 & 2.

This letter is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the request within a reasonable time. Copies of the request are available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the local public document room for the Limerick Generating Station, located at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Dated at Bethesda, Maryland this 31st day of May 1979.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor
Regulation.

[FR Doc. 79-18364 Filed 6-12-79; 8:45 am]

BILLING CODE 7590-01-M

**Privacy Act of 1974; New System of
Records**

AGENCY: U.S. Nuclear Regulatory
Commission (NRC).

ACTION: Notice of new system of
records.

SUMMARY: The Nuclear Regulatory Commission has established a new system of records identified as Oral History Program, NRC-25. The purpose of the system is to develop a collection of taped interviews with NRC staff members, former agency personnel, and other individuals who have been involved in nuclear regulatory activities. These interviews will be transcribed for use as a resource for the future writing of a history of nuclear regulation. They will provide an important tool for documenting the role of the Nuclear Regulatory Commission, and a valuable resource for present and future researches.

EFFECTIVE DATE: This amendment to the NRC Notices of Systems of Records becomes effective on July 13, 1979.

FOR FURTHER INFORMATION CONTACT:

Ms. Betty L. Wagman, Privacy Act Officer, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-8133.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission published a notice of a proposed new system of records in the Federal Register on March 13, 1979 (44 FR 14653). The notice invited comments on the proposed new system of records identified as Oral History Program, NRC-25, by April 12, 1979. No comments were received on the proposed new system of records.

The new system is identified as the NRC Oral History Program. The Historian will conduct interviews, on a voluntary basis, with individuals knowledgeable about various aspects of the history of nuclear regulation. The interviews will be recorded on magnetic tape, then transcribed to typescript for long-term retention and eventual use as background for a written history. The records will be accessible by name of the individuals interviewed.

Notice is hereby given that the Commission has established the new system of records Oral History Program, NRC-25. The text of NRC-25 is identical with the text of the proposed NRC-25 published on March 13, 1979.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552, 552a, and 553 of Title 5 of the United States Code, the following notice of NRC Systems of Records, Oral History Program, NRC-25, is published as a document subject to publication in the annual compilation of Privacy Act Documents.

EFFECTIVE DATE: This amendment to the NRC Notices of Systems of Records becomes effective on July 13, 1979.

Dated at Bethesda, Maryland this 4th day of June 1979.

For the Nuclear Regulatory Commission,
Lee V. Gossick,
Executive Director for Operation.

NRC-25

SYSTEM NAME:

Oral History Program—NRC

SYSTEM LOCATION:

Office of the Secretary of the Commission, NRC, 1717 H Street, NW, Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, former employees, and other individuals who volunteer to be interviewed for purpose of providing information for a history of the nuclear regulatory program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of interviews on magnetic tape, and transcribed scripts of the interviews.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

- a. Energy Reorganization Act of 1974, Title II, Sections 201(a)(1) and 201(a)(2)
- b. Section 141b, Atomic Energy Act of 1954, as amended, 42 U.S.C. 2161b.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

- a. For incorporation in a future publication on the history of the nuclear regulatory program;
- b. To provide information to historians and other researchers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on magnetic tape and typescripts.

RETRIEVABILITY:

Information is accessed by the name of the interviewee.

SAFEGUARDS:

Maintained in locked file cabinet. Access to and use of these records are limited to those authorized by the Historian or a designee.

RETENTION AND DISPOSAL:

Typescripts are retained indefinitely. Tapes are normally retained until they

are transcribed; some may be retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

NRC Historian Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from interviews granted on a voluntary basis to the Historian and his/her staff.

[FR Doc. 79-18281 Filed 6-12-79; 8:45 am]

BILLING CODE 7590-01-M

Study of Nuclear Power Plant Construction During Adjudication; Meetings

The next meeting of the Nuclear Regulatory Commission's advisory committee on nuclear power plant construction during adjudication will be held at 9:30 a.m. Friday, July 6, 1979, in Room 415, East West Towers, 4350 East West Highway, Bethesda, Maryland. After that meeting, the study group is currently planning as its next session a two day public workshop addressing various aspects of the subject of construction during adjudication. This workshop, and a request for public comment which will soon be published in the Federal Register, are designed to assist the study group by providing it with insight into public views on the subject of its work. At the workshop, three panels composed of private citizens and Commission employees will consider the issues of delaying effectiveness of initial decisions, limiting effectiveness to certain situations, and changing the existing adjudicatory process. Most of the panel members will be selected by the study group itself, but the group is prepared to consider qualified nominations submitted by the public. Any nominations should include sufficient information for the group to decide whether the nominee's presence on a panel could effectively aid the group's work. Such information would at the minimum include the nominee's prior experience with the nuclear licensing process, other relevant experience and a telephone and a telephone number at which the nominee can be reached. Any nominations must be received by June 25, 1979 to be considered, since the workshop is currently tentatively scheduled for Wednesday and Thursday, July 18 and 19. Further details

on the location and scheduling of the workshop meeting will be announced later.

Members of the public are invited to attend the group's meetings and there will be a limited amount of time available during each meeting for members of the public to make oral statements to the study group. Written comments, addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, will be accepted for one week after each meeting. The Chairman of the study group is empowered to conduct the meeting in a manner that in his judgment, will facilitate the group's work, including, if necessary, continuing or rescheduling meetings to another day.

A file of documents relevant to the group's work, including a complete transcript of each meeting, memoranda exchanged between group members, public comments and other documents, is available for inspection and copying at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555. The Secretary of the NRC maintains a mailing list for persons interested in receiving notices of the group's meetings and actions. Anyone wishing to be on that list should write to: Secretary of the Commission, Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

The study group will provide its final report to the Commission by November 1, 1979. For further information on the study group's mission, please call Stephen S. Ostrach, Office of the General Counsel, Nuclear Regulatory Commission, 202/634-3224.

Dated at Washington, D.C., this 8th day of June, 1979.

Gary Milhollin,
Chairman.

[FR Doc. 79-18355 Filed 6-12-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338SP, 50-339SP]

Virginia Electric & Power Co. (VEPCO); (North Anna Power Station Units 1 and 2); Proposed Amendment to Operating License NPF-4

Reschedule of Hearing

In its Notice of Hearing of May 4, 1979, the Licensing Board scheduled a prehearing conference to begin at 9:30 in the morning, Tuesday, June 26, 1979 at the Council Chambers, City Hall, Charlottesville, Virginia, and a hearing to begin thereafter and continue through the rest of the work week and into the following work week, if necessary.

In its Notice of Hearing, the Licensing Board stated that it would be amenable to a motion to reschedule the hearing at a later date for good cause shown. Subsequently, the NRC Staff moved to reschedule the prehearing conference and hearing to July 9-13, 1979; Citizens Energy Forum (CEF) requested that the hearing be postponed to no earlier than July 24, 1979; and Potomac Alliance urged a schedule that would permit a hearing about the second half of August. Virginia Electric and Power Company (VEPCO), on the other hand, was opposed to any delay in the hearing, but if the Licensing Board decided to reschedule the hearing, VEPCO asked that it be rescheduled to begin no later than July 9.

After giving consideration to the foregoing and the reasons in support thereof and mindful that answers to VEPCO's Motion for Summary Disposition are presently due and that said answers of the NRC Staff and CEF have just been received, the Licensing Board cancels the prehearing conference and hearing scheduled in the Notice of Hearing of May 4, 1979 and reschedules the same as follows:

Prehearing Conference—9:30 a.m., Monday July 9, 1979

Hearing—Immediately following the prehearing conference and continuing through the work week, if necessary

The location of the prehearing conference and hearing shall be the same as scheduled before, namely the Council Chambers, City Hall (2nd floor), 7th and Main Streets, Charlottesville, Virginia.

Any person who wishes to make an oral or written statement in this special proceeding but who has not filed a petition for leave to intervene as heretofore provided for in the notice published by the Commission on May 22, 1978 in the Federal Register, 43 FR 21957, entitled "Proposed Issuance of Amendment to Facility Operating License," may request permission to make a limited appearance pursuant to the provisions of 10 CFR § 2.715 of the Commission's Rules of Practice. Limited appearances will be permitted in this special proceeding at the discretion of the Licensing Board on the predication that VEPCO's pending Motion for Summary Disposition is denied with respect to one or more contentions set out in the Licensing Board's Order Granting Intervention, Providing for a Hearing and Designating Contentions of Intervenor, dated April 21, 1979, as amended.

A person permitted to make a limited appearance does not become a party to

this proceeding, but may state his or her position and raise questions which he or she would like to have answered to the extent that the questions are within the scope of the hearing. Limited appearances will be allowed during the above scheduled prehearing conference. Each person making a limited appearance will be limited to ten (10) minutes unless the Licensing Board has occasion to rule otherwise at the prehearing conference.

The parties will be notified by the Licensing Board as soon as practicable of such contentions designated for hearing which have been disposed of as a result of VEPCO's Motion for Summary Disposition, dated May 11, 1979. Any contention so disposed of obviously will not be the subject of any hearing.

Done this 6th day of June, 1979 at Washington, D.C.

Atomic Safety and Licensing Board.

Valentine B. Deale,

Chairman.

[FR Doc. 79-18363 Filed 6-12-79; 8:45 am]

BILLING CODE 7990-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Intergovernmental Science, Engineering, and Technology Advisory Panel; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovernmental Science, Engineering, and Technology Advisory Panel; Full Panel Meeting.

Date: Wednesday, June 27, 1979, 8:00 p.m.—9:30 p.m.; Thursday, June 28, 1979, 8:30 a.m.—3:00 p.m.

Place: Governor's Inn, Research Triangle Park, North Carolina. Conference Rooms A, B, C, Second Floor.

Type of Meeting: Open.

Contact Person: Mr. Louis Blair, Executive Secretary, ISETAP, Office of Science and Technology Policy, Executive Office of the President, 202/395-4506.

Minutes of the meeting: Executive minutes of the meeting will be available from Mr. Blair's office.

Agenda

Wednesday, June 27

8:00 p.m.—8:05 p.m.: Welcome.

8:05 p.m.—8:25 p.m.: Address—Selected Science & Technology Issues Confronting the Nation and Administration Actions.

8:30 p.m.—9:30 p.m.: Status Reports on ISETAP and its Task Forces.

Thursday, June 28

8:30 a.m.—10:30 a.m.: Functions and Organization of ISETAP and Relationship of ISETAP to OSTP.

10:45 a.m.—12:00 noon: Review of Selected Current Activities and Advice and Direction from Panel.

12:20 p.m.—2:30 p.m.: Prospective Issues and Continuing ISETAP Activities.

2:30 p.m.—3:00 p.m.: Task Force Assignments, Next Meeting, Comments from Public.

William J. Montgomery,

Executive Officer.

[FR Doc. 79-18330 Filed 6-12-79; 8:45 am]

BILLING CODE 3170-01-M

Intergovernmental Science, Engineering, and Technology Advisory Panel; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovernmental Science, Engineering, and Technology Advisory Panel; Human Resources Task Force.

Date: Wednesday, June 27, 1979, 10:00 a.m.—2:30 p.m.

Place: New Executive Office Building, Room 3104, 728 Jackson Pl. NW., Washington, D.C.

Type of Meeting: Open.

Contact Person: Dr. Michael Gruber, Human Resources Task Force, ISETAP—Office of Science and Technology Policy, Executive Office of the President.

Minutes of the meeting: Executive minutes of the meeting will be available from Dr. Gruber's office.

Agenda

10:00 a.m.: Progress report by ISETAP staff on the elderly services research project and presentation of research priorities set by state and local officials.

10:30 a.m.: Presentation of research plans in elderly services research by research managers from selected Federal agencies.

12:30 p.m.: Working Lunch.

1:00 p.m.: discussion of results of American Association for the Advancement of Science/ISETAP Workshop on evaluation of social program impact, health care cost control, health screening, and integrated services.

2:30 p.m.: Adjourn.

June 8, 1979.

William J. Montgomery,

Executive Officer, OSTP.

[FR Doc. 79-18331 Filed 6-12-79; 8:45 am]

BILLING CODE 3170-01-M

PRESIDENTIAL COMMISSION ON WORLD HUNGER

Meeting

The seventh meeting of the Presidential Commission on World

Hunger will be held on July 6 and 7 at facilities near Queenstown, Maryland. On July 6 the meeting will begin at 9 a.m. and conclude at 4:30 p.m. and on July 7, the meeting will begin at 9 a.m. and conclude at approximately 2 p.m.

The meeting will be devoted to a review and discussion of an initial draft of the Commission's report to the President.

Inquiries should be addressed to Mr. Daniel E. Shaughnessy, Executive Director, Presidential Commission on World Hunger, Washington, D.C. 20006.

Donald B. Harper,
Administrative Officer, Presidential Commission on World Hunger.

[FR Doc. 79-18312 Filed 6-12-79; 8:45 am]

BILLING CODE 6820-97-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21084; 70-6290]

General Public Utilities Corp. and Jersey Central Power & Light Co.; Proposed Issuance and Sale of First Mortgage Bonds by Subsidiary and Guaranty by Holding Company; Request for Exemption From Competitive Bidding

June 6, 1979.

In the matter of General Public Utilities Corporation, 260 Cherry Hill Road, Parsippany, New Jersey 07054, Jersey Central Power & Light Company, Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960.

Notice is hereby given that General Public Utilities Corporation ("GPU"), a registered holding company, and its electric utility subsidiary Jersey Central Power & Light Company ("Jersey Central") have filed with this Commission an application-declaration and amendments thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b) and 12 of the Act and Rules 45 and 50(a)(5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as amended, which is summarized below, for a complete statement of the proposed transaction.

Jersey Central proposes to issue and sell up to \$75,000,000 aggregate principal amount of first mortgage bonds ("Bonds"), to be issued under its indenture dated as of March 1, 1946, as heretofore supplemented and amended and as to be further supplemented and amended by a supplemental indenture. None of the Bonds may be redeemed before ten years after date of issuance if

such redemption is for the purpose of refunding them through the use, directly or indirectly, of borrowed funds having a lower effective interest cost than the effective interest cost of the Bonds.

Other terms of the Bonds will be supplied by amendment. It is proposed that GPU will guarantee the payment of principal and interest of the Bonds.

The net proceeds from the sale of the Bonds will be used to pay or before maturity a like amount of short-term bank loans outstanding at the date of sale or to pay construction expenditures or to reimburse Jersey Central's treasury for funds previously expended therefrom.

Jersey Central requests an exemption from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a)(5). It refers to the March 28, 1979, nuclear accident at Unit No. 2 of the Three Mile Island nuclear generating station ("TMI-2"), in which unit Jersey Central owns an undivided 25% interest, the remainder being owned by Pennsylvania Electric Company (25%) and Metropolitan Edison Company (50%), associate companies of Jersey Central. Expenditures related to TMI-2 and the purchase of replacement energy will subject the GPU system, including Jersey Central, to a serious cash drain for an indeterminable period. In view of these uncertain and exceptional conditions, Jersey Central believes that competitive bidding for the Bonds is not now feasible.

Jersey Central believes it may be possible to effect a sale of the Bonds through private placement or a negotiated public offering, or both. Jersey Central proposes to explore with a group of prospective underwriters the prospects for such private or public offering and negotiate the terms thereof. It is hereby authorized to do so.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the Board of Public Utilities of the State of New Jersey has jurisdiction over the proposed issuance and sale of the Bonds and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 27, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission

should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-18500 Filed 6-12-79; 8:43 am]

BILLING CODE 8010-01-M

[Release No. 21085, 70-6303]

General Public Utilities Corp. and Jersey Central Power & Light Co.; Proposed Issuance and Sale of Debentures by Subsidiary and Guaranty by Holding Company; Request for Exemption From Competitive Bidding

June 6, 1979.

In the matter of General Public Utilities Corporation, 260 Cherry Hill Road, Parsippany, New Jersey 07054, Jersey Central Power & Light Company, Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960.

Notice is hereby given that General Public Utilities Corporation ("GPU"), a registered holding company, and its electric utility subsidiary Jersey Central Power & Light Company ("Jersey Central") have filed with this Commission an application-declaration and amendments thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b) and 12 of the Act and Rules 45 and 50(a)(5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as amended,

which is summarized below, for a complete statement of the proposed transaction.

Jersey Central proposes to issue and sell up to \$50,000,000 aggregate principal amount of unsecured debentures ("Debentures"), to be issued under its indenture dated as of October 1, 1963, as heretofore supplemented and amended and as to be further supplemented and amended by a supplemental indenture. None of the Debentures may be redeemed before ten years after date of issuance if such redemption is for the purpose of refunding them through the use, directly or indirectly, of borrowed funds having a lower effective interest cost than the effective interest cost of the Debentures. Other terms of the Debentures will be supplied by amendment. It is proposed that GPU will guarantee the payment of principal and interest of the Debentures.

The net proceeds from the sale of the Debentures will be used to pay at or before maturity a like amount of short-term bank loans outstanding at the date of sale or to pay construction expenditures or to reimburse Jersey Central's treasury for funds previously expended therefrom.

Jersey Central Requests an exemption from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a)(5). It refers to the March 28, 1979, nuclear accident at Unit No. 2 of the Three Mile Island nuclear generating station ("TMI-2"), in which unit Jersey Central owns an undivided 25 percent interest, the remainder being owned by Pennsylvania Electric Company (25%) and Metropolitan Edison Company (50%), associate companies of Jersey Central. Expenditures related to TMI-2 and the purchase of replacement energy will subject the GPU System, including Jersey Central, to a serious cash drain for an indeterminable period. In view of these uncertain and exceptional conditions, Jersey Central believes that competitive bidding for the Debentures is not now feasible.

Jersey Central believes it may be possible to effect a sale of the Debentures through private placement or a negotiated public offering, or both. Jersey Central proposes to explore with a group of prospective underwriters the prospects for such private or public offering and negotiate the terms thereof. It is hereby authorized to do so.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the Board of Public Utilities of the State of New Jersey has jurisdiction over the proposed issuance and sale of the Debentures and

that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 27, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-18301 Filed 6-12-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 10719; 812-4226]

**Insured Municipals—Income Trust,
Filing of Application for an Order
Amending a Previous Order Granting
Exemption and Permitting an Offer of
Exchange**

June 6, 1979.

In the matter of Insured Municipals—Income Trust, Investors' Corporate—Income Trust, Investors' Municipal—Yield Trust, Investors' Governmental Securities—Income Trust Van Kampen Sauerman, Inc., Dain, Kalman & Quail, Inc., c/o Van Kampen Sauerman, Inc., 208 South LaSalle Street, Chicago, Illinois 60604.

Notice is hereby given that Insured Municipals—Income Trust (the "Municipal Fund"), Investors' Corporate—Income Trust (the "Corporate Fund"), Investors' Municipal—Yield Trust (the "Municipal Yield Fund") and Investors' Governmental Securities—Income Trust (the "Government Fund"), registered under the Investment Company Act of 1940 (the "Act") as unit investment trusts (collectively referred to herein as the "Funds"), their sponsor, Van Kampen Sauerman, Inc., and a cosponsor of the Corporate Fund, Dain, Kalman & Quail, Inc. (collectively referred to as the "Applicants"), filed an application on April 20, 1979, and amendments thereto on May 8, 1979 and May 14, 1979, requesting an order of the Commission amending in the manner described below an earlier order of the Commission dated November 28, 1978 (Investment Company Act Release No. 10498), which earlier order amended an order of the Commission dated October 17, 1978 (Investment Company Act Release No. 10442), which order amended an order of the Commission dated January 31, 1978 (Investment Company Act Release No. 10109). These orders pursuant to Section 6(c) of the Act exempted from the provisions of Section 22(d) of the Act the offer and sale of units of the Funds pursuant to a conversion option (the "Plan"), and pursuant to Section 11 of the Act permitted the Funds to offer their units at net asset value plus a fixed dollar sales charge pursuant to the Plan. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Under the Plan, as currently administered, a certificateholder in one of the Funds wishing to dispose of his units in a series of that Fund for which a secondary market is being maintained has the option to convert his units into units of another Fund (e.g., Corporate into Municipal, Municipal into Government) of any series for which units are available for sale. The Applicants state that the purpose of the Plan is to provide investors in each of the Funds a convenient and less costly means of transferring interests as their investment requirements change. The Applicants state that the respective sponsors have indicated that they intend to maintain a market for the units of each series of the respective Funds; however there is no obligation to maintain such a market. Consequently, the respective sponsors reserve the right to modify, suspend or terminate the Plan

at any time without further notice to certificateholders.

Under the Plan as originally proposed, the Applicants state that they intended to have each conversion transaction operate in a manner essentially identical to any secondary market transaction. Since Van Kampen Sauerma, Inc. elected to price the securities in the underlying portfolios of each series of each Fund on a weekly basis, it was required to make all purchases in the secondary market at a price based on the offering side evaluation of such portfolio securities. As a result, each conversion transaction was effected at a price based on the offering side evaluation of the portfolio securities of the Funds involved in the transaction. However, Van Kampen Sauerma, Inc. has decided recently to elect to price the portfolio securities of the Municipal Fund, the Government Fund, and the Municipal Yield Fund (the "Daily Valued Funds") on a daily basis and to maintain the secondary market for the units of the Daily Valued Funds at a price based on the bid side evaluation of the underlying portfolio securities for each Fund. In connection therewith, the sales charges relating to such secondary market resales will be revised. The Applicants state that the sales charges that will be added to the price of units in the secondary market of the Municipal Fund, Municipal Yield Fund and the Government Fund will be 5.7%, 6.2% and 4.0%, respectively, of the related public offering prices for such Funds. The sales charges during the initial offering of units of such Funds will be 4.7%, 5.2% and 3.5%, respectively, of the related public offering prices. The Corporate Fund will continue to be valued for both primary and secondary market transactions at a price based on the offering side evaluation of the underlying portfolio securities of that Fund and will continue to charge a 4.5% sales charge for both primary and secondary market transactions. As a result of the foregoing changes, the Applicants propose that the conversion option be amended to permit the purchase of units from certificateholders of the Daily Valued Funds at prices based on the bid side evaluation of the units of such Funds being purchased, and the resale of units upon conversion to such certificateholders at prices based on the bid side evaluation of units in the case of resales of units of the other Daily Valued Funds and at prices based on the offering side evaluation of units in the case of resales of units of the Corporate Fund. In addition, the Applicants propose that the conversion option relating to the Corporate Fund be

amended to permit the purchase of units from certificateholders of that Fund at prices based on the offering side evaluation of the units being purchased, and the resale of units upon conversion to such certificateholders at prices based on the bid side evaluation of units of the Daily Valued Funds being sold.

The Applicants state that the Plan will operate essentially in the same manner as in the original application, as amended. In addition to the change in the procedure of evaluating the underlying portfolio securities of the Daily Valued Funds from weekly to daily pricing, the Applicants state that the conversion option will only be available for conversions into secondary market units of the Funds. The original application, as amended, stated that conversions could be made into either primary or secondary market units of the Funds. The Applicants state that restricting the conversion option to conversions into secondary market units of the Funds is appropriate in light of the revisions that have been made in the method of determining the net asset value of the Daily Valued Funds and the varying sales charges between the primary and secondary markets for sale of units of such Funds.

The Applicants state that as a result of the differences in methods of evaluation and sales charges between primary and secondary market transactions in the Daily Valued Funds, a potential for abuse in effecting conversion transactions under the Plan may occur. Currently, each of the units of the Funds may be converted into units of one or more of the other Funds for a special sales charge of \$15.00 per unit. It is possible because of the different methods of valuing units (i.e., bid and offering price) and the varying sales charges imposed by the Funds, that there could be created inequities between a person buying units of a Fund directly and another person acquiring units through the Plan. To be specific, a person could acquire units in one Fund, immediately convert such units into another Fund and pay a lower sales charge than would a person acquiring units in the same Fund directly. The Applicants state that under normal circumstances this situation is unlikely to arise since the initial sales charge on the units being converted plus the conversion sales charge usually will exceed the sales charge related to direct purchases of the units being acquired through the Plan. However, given the differences in sales charges between the Funds a spread will occur in most conversions and thus the potential for discrimination exists. The Applicants

further state that they believe after a certificateholder has held his Fund units for an adequate period of time the discriminatory nature of his effecting a conversion transaction is not as compelling, and thus argue that the potential abuses outlined above are not material if the converting certificateholder has held his Fund units for at least an eight month period of time. Thus, the Applicants propose that certificateholders who have owned units in the various Funds for a period of eight months or more be allowed to exercise the conversion option and acquire units of one or more of the other Funds at net asset value plus a sales charge of \$15.00 per unit. Furthermore, the Applicants state that any certificateholders who wish to convert their units prior to the expiration of the eight month period be allowed to exchange such units at net asset value (bid side evaluation in the case of the Daily Valued Funds and offering side evaluation in the case of the Corporate Fund) plus a sales charge based on the greater of \$15.00 per unit or an amount which together with the initial amount paid to acquire the units being converted equals the highest price during the initial public offering of the units of the Fund into which the conversion is being affected. The highest price during the initial public offering of units in each Fund is based on the offering side evaluation of the underlying securities in the portfolios of such Funds (rather than the bid side evaluation thereof) except for bid side evaluations of existing Fund units, if any, deposited in the Daily Valued Funds.

The Applicants state that in the case of certificateholders of the Daily Valued Funds who wish to exercise the conversion option to acquire units of the Corporate Fund, such certificateholders will be selling their units in the Daily Valued Funds at a price based on the bid side evaluation of such units and acquiring units at a price based on the offering side evaluation. The Applicants state that this is neither unfair nor inequitable to any certificateholder since all certificateholders who acquire units of the Corporate Fund in the secondary market will be required to purchase such units at a price based on the offering side evaluation. Furthermore, the Applicants state that participation in the Plan is optional and that no certificateholder is obligated to exercise the conversion option. The Applicants represent that the pricing procedures for the Funds will be clearly stated in all related disclosure documents. Thus, the Applicants state that the proposed changes in the

conversion option will be fair and equitable to all certificateholders. Finally, the Applicants assert that the fundamental purpose underlying the conversion option (providing existing certificateholders an opportunity to reinvest the proceeds from the sale of their Fund units into units of a series of another Fund at a reduced sales charge) will be as sound, justifiable and fair to all certificateholders under the changes that are proposed to be made in the Plan as it was under the Plan, as currently administered.

Section 11(c) of the Act provides, among other things, that exchange offers involving registered unit investment trusts are subject to the provisions of Section 11(a) of the Act irrespective of the basis of exchange. Section 11(a) of the Act provides, in pertinent part, that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make, or cause to be made, an offer to the holder of a security of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus. The sales charge described in the prospectus of each of the Funds for effecting regular secondary market purchase and sale transactions is greater than the sales charge which will be applicable to transactions under the Plan. Rule 22d-1 under the Act permits certain variations in sales charges, none of which it is alleged will be applicable to transactions under the Plan.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may not later than June 28, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-15302 Filed 6-12-79; 6:45 am]
BILLING CODE 8010-01-M

[Release No. 34-15901; File No. SR-MSRB-79-5]

Municipal Securities Rulemaking Board; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 24, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission the proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The Municipal Securities Rule making Board (the "Board") has filed the following proposed amendment to rule G-12 on uniform practice (hereafter referred to as the "proposed rule change"): Rule G-12.* Uniform Practice.

* *Italics* indicates new language; [brackets] indicate deletions.

(a) through (c) No change.

(d) Comparison and Verification of Confirmations; Unrecognized Transactions.

(i) through (ii) No change.

(iii) In the event a party has sent a confirmation of a transaction, but fails to receive a confirmation from the contra party or a notice indicating nonrecognition of the transaction within four business days of the trade date (within six business days of the trade date, in the case of an initial confirmation of a transaction effected on a "when, as, and if issued" basis), the confirming party shall, *not later than the eleventh business day following the trade date*, [promptly] seek to ascertain whether a trade occurred. If, after such verification, such party believes that a trade occurred, it shall immediately notify the non-confirming party by telephone to such effect and send within one business day thereafter, a written notice, return receipt requested, to the non-confirming party, indicating failure to confirm. Promptly following receipt of telephone notice from the confirming party, the non-confirming party shall seek to ascertain whether a trade occurred and the terms of the trade. In the event the non-confirming party determines that a trade occurred, it shall immediately notify the confirming party by telephone to such effect and, within one business day thereafter, send a written confirmation of the transaction to the confirming party. In the event a party cannot confirm the trade, such party shall promptly send a written notice, return receipt requested, to the confirming party, indicating nonrecognition of the transaction.

(iv) through (viii) No change.

(e) through (l) No change.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

Purpose of Proposed Rule Change

Under rule G-12 as currently in effect, each party to a transaction between municipal securities professionals must send to the other party a confirmation containing certain information. Paragraph (d) of rule G-12 provides that in the event a confirming party does not receive a contra-confirmation of the transaction within the time periods specified by the rule, such party must initiate certain procedures to verify the transaction, including giving telephonic and written notice to the contra party who has failed to confirm. Paragraph (d) also provides that these procedures must be initiated within four business

days of the trade date (within six business days of the trade date in the case of an initial confirmation of a transaction effected on a "when, as, and if issued" basis).

Several members of the industry have indicated to the Board that they have found rule G-12(d) burdensome because of the time periods provided in the rule. Specifically, they assert that the requirement in the rule to initiate verification procedures after four business days often results in their needlessly initiating such procedures when contra-confirmations have in fact been prepared and sent. They attribute this problem in large part to delays in mail service.

As a result of such comments, the Board informally surveyed approximately 30 municipal securities brokers and municipal securities dealers to obtain information concerning their experience with this provision. The results of that survey indicated that certain municipal securities dealers, particularly those located on the West Coast, have encountered difficulty with the four business day requirement in the rule.

In light of the comments and the results of its informal survey, the Board issued in exposure draft form on November 28, 1978, a proposed amendment to rule G-12(d), which provided additional time for initiating the verification procedures. The response to the exposure draft is described under item 5 in this filing.

The Board believes in view of all of the foregoing that rule G-12(d)(iii) should be modified to provide additional time for the initiation of verification procedures. The Board therefore proposes to amend rule G-12(d)(iii) to provide that the verification procedures may be initiated, in the event a contra-confirmation is not received, at any time between the fourth business day and eleventh business day following the trade date. The Board is of the view that the proposed change will alleviate the problems which the industry has experienced with the current requirement, while at the same time assuring that confirmations will continue to be compared and verified on a timely basis.

Basis Under the Act for Proposed Rule Changes

The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended (the "Act"), which requires and empowers the Board to adopt rules:

Designed * * * to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in * * * facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *

Comments Received From Members, Participants or Others on Proposed Rule Change

As indicated above, the Board issued for comment on November 28, 1978, a draft amendment to rule G-12(d). The draft amendment provided that the verification procedures could be initiated, in the event a contra-confirmation was not received, at any time between the fourth business day and fifteenth calendar following trade date. The following persons submitted comments in response to the draft amendments:

Bankers Trust Company ("Bankers Trust")
Lebenthal & Co., Inc. ("Lebenthal")
Mercantile Trust Company, N.A. ("Mercantile Trust")
Merrill Lynch, Pierce, Fenner & Smith ("Merrill Lynch")
The Northern Trust Company
Salomon Brothers
Weil Investment Company

All of the commentators, except Merrill Lynch, supported the general intent of the draft amendment. Salomon Brothers and Mercantile Trust expressed unqualified support for the amendment. Lebenthal supported the amendment, but suggested that in order to avoid confusion the time period involved in the provision should be described in terms of "business" days only, rather than in "business" and "calendar" days. The Board adopted this suggestion, providing in the proposed amendment for an outside time limit of 11 business days.

The Northern Trust Company and Weil Investment Company suggested that the outside time limit of fifteen calendar days in the draft amendment was too long. Bankers Trust suggested that the four business day time limit be preserved, but that it should begin on settlement date, rather than trade date.

The Board notes in response to these comments that the proposed rule change only sets an outside limit within which time the verification procedures must be initiated, and would not prohibit a municipal securities broker or municipal securities dealer from initiating the procedures at an earlier time.

Merrill Lynch opposed the draft amendment, stating that "uncompared

transactions left unresolved for a longer period of time create greater potential liability for the brokerage community and for the public." As an alternative, Merrill Lynch suggested amending the rule to require that verification procedures be initiated on the fifth business day following trade date, rather than "promptly" after a party fails to receive a contra-confirmation "within four business days of trade date." As reflected in this filing, the Board is of the view that it is appropriate to provide additional time for the initiation of the verification procedures.

Merrill Lynch also objects to the statement in the exposure draft that:

[i]f a transaction were settled prior to commencement of the verification procedure, the confirming party would not be required to complete the procedure.

The Board is of the view that the confirming party should not be obligated by rule to proceed with the verification procedures, although such party is free to do so if it wishes.

Burden on Competition

The Board is of the opinion that the proposed rule change will not impose any burden on competition.

On or before July 18, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before July 5, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

June 6, 1979.

[FR Doc. 79-18287 Filed 6-12-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-15900; File No. SR-MSRB-79-4]

Municipal Securities Rulemaking Board; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 24, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission the proposed rule changes as follows

Statement of the Terms of Substance of the Proposed Rule Changes

The proposed rule changes effect modifications in rule D-11 defining "associated persons" for purposes of the Board's rules, in rule G-13 concerning mis-representations of quotations, and in rule G-19 governing suitability of recommendations and transactions in municipal securities. The text of the proposed rule changes appears below.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

Purpose of Proposed Rule Changes, Rule D-11

Rule D-11 provides that for purposes of the Board's rules the terms "broker," "dealer," "municipal securities broker," "municipal securities dealer," and "bank dealer" include their respective associated persons. The rule eliminates the need to make specific reference to personnel of securities firms and bank dealers in each Board rule that applies to both the organization and its personnel.

Under the securities laws, the term "associated persons" is subject to varying definitions.*

*See e.g., Section 3(a)(18) of the Act, which defines the term "person associated with a broker or dealer" to include those "directly or indirectly controlling, controlled by, or under common control with such broker or dealer."

Similarly, Section 3(a)(32) of the Act includes within the definition of "person associated with a municipal securities dealer" when used with respect to a municipal securities dealer which is a bank or a division or department of a bank, "any person directly or indirectly controlling [the municipal securities dealer's activities with respect to municipal securities] or controlled by the municipal securities dealer in connection with such activities."

In this connection, the Board has stated in notices relating to rule D-11 that:

[a]lthough the statutory definition of associated persons includes individuals and organizations in a control relationship with the securities professional, the context of the fair practice rules indicates that such rules will ordinarily not apply to persons who are associated with securities firms and bank dealers solely by reason of a control relationship.

The Board is of the view that this point should be expressly addressed in rule D-11 to avoid possible confusion. Accordingly, the proposed rule changes amend rule D-11 to clarify that the Board's rules apply to associated persons only to the extent they are engaged in performing municipal securities dealer activities, as defined in the Board's rules.

Rule G-13

Rule G-13 sets forth a number of requirements applicable to quotations relating to municipal securities. Paragraph (b) of the rule addresses the distribution of quotations by a municipal securities dealer on its own behalf or on behalf of another municipal securities professional. Paragraph (d) of the rule addresses the distribution of quotations made by other professionals. Since paragraph (d) complements paragraph (b), the Board believes that it should logically be included as a separate subparagraph of paragraph (b) of rule G-13.

Rule G-19

Rule G-19 prohibits a securities professional from recommending transactions in municipal securities to a customer unless the professional makes certain determinations with respect to the suitability of such recommendations. Paragraph (a) of the rule provides in pertinent part:

Notwithstanding the foregoing, if a broker, dealer or municipal securities dealer determines that a transaction in *specific municipal securities* would not be suitable for a customer and so informs such customer, such broker, dealer or municipal securities dealer may thereafter respond to the customer's request for advice concerning such securities and may execute transactions in such securities at the direction of the customer. [Emphasis added.]

The Board is concerned that the reference to "specific municipal securities" may be misconstrued. The provision is clearly intended to permit a municipal securities professional to give advice and execute transactions in securities which the professional has recommended that a customer not purchase, if the customer is insistent on

doing so. The provision, moreover, is also intended to permit a municipal securities professional to make recommendations to a customer who, after being advised that municipal securities in general are not a proper investment for him, insists on purchasing municipal securities. In order to make clear that the provision applies in the latter circumstances, the Board has adopted the proposed amendment to rule G-19.

Basis Under the Act for Proposed Rule Changes

The Board has adopted the proposed rule changes pursuant to Section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended (the "Act"), which directs the Board to adopt rules which are

* * * designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.* * *

Comments Received From Members, Participants or Others on Proposed Rule Changes

The Board neither solicited nor received written comments on the proposed rule changes, which were developed in response to comments made by the staff of the Commission.

Burden on Competition

The Board does not believe that the proposed rule changes will impose any burden on competition. On or before July 18, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission; Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and

of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before July 5, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

Text of Proposed Rule Changes*

Rule D-11—"Associated Persons"

Unless the context otherwise requires or a rule of the Board otherwise specifically provides, the terms "broker," "dealer," "municipal securities broker," "municipal securities dealer," and "bank dealer" shall refer to and include their respective associated persons to the extent such associated persons are performing municipal securities dealer activities, as defined in Board rules, with or for the broker, dealer, municipal securities broker, municipal securities dealer or bank dealer. Unless otherwise specified, persons whose functions are solely clerical or ministerial shall not be considered associated persons for purposes of the Board's rules.

Rule G-13

(a) No change.

(b)(i)(ii) and (iii) No change.

(iv) *No municipal securities broker or municipal securities dealer shall knowingly misrepresent a quotation relating to municipal securities made by any other broker, dealer, or municipal securities dealer.*

[(d) *Misrepresentations of Quotations.* No municipal securities broker or municipal securities dealer shall knowingly misrepresent a quotation relating to municipal securities made by any other broker, dealer or municipal securities dealer.]

Rule G-19—Suitability of Recommendations and Transactions

(a) Customer Information. No broker, dealer, or municipal securities dealer shall recommend the purchase, sale, or exchange of a municipal security to a customer unless such broker, dealer, or municipal securities dealer, after reasonable inquiry.

(i) and (ii) No change.

* *Italics indicate new language; [brackets] indicate deletions.*

Notwithstanding the foregoing, if a broker, dealer, or municipal securities dealer determines that a transaction in *municipal securities* or in specific municipal securities would not be suitable for a customer and so informs such customer, such broker, dealer, or municipal securities dealer may thereafter respond to the customer's requests for *investment* advice concerning *municipal securities generally or such specific securities* and may execute transactions [in such securities] at the direction of the customer.

(b) and (c) No change.

[FR Doc. 79-18303 Filed 6-12-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Proposal No. 08/08-0048]

Capital Corp. of Wyoming, Inc.; Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102 (1979)), by the Capital Corporation of Wyoming, Inc., 145 South Durbin Street, P.O. Box 612, Casper, Wyoming 82602 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. *et seq.*).

The proposed officers, directors and sole shareholder will be:

B. R. Weber, President, 3421 Warren Avenue, Casper, Wyoming 82601.

Larry J. McDonald, Executive Vice President and Director, 4524 South Skyline Road, Alcova Route, Casper, Wyoming 82601.

Robert E. Kemper, Vice President, 1035 Cardiff, Casper, Wyoming 82601.

Hugh L. Binford, Vice President, La Casa Cerro, Sinclair, Wyoming 82334.

D. Thomas Kidd, Secretary-Treasurer, 3321 Carmel Drive, Casper, Wyoming 82601.

Elizabeth Smith, Assistant Secretary, 4440 South Poplar No. 201, Casper, Wyoming 82601.

Bruce G. Beaudoin, Director, 4441 Sunrise Court, Casper, Wyoming 82601.

H. K. Harris, Director, 508—4th Avenue North, Greybull, Wyoming 82426.

Robert G. Kimball, Director, 1801 Brookview Drive, Casper, Wyoming 82601.

Vern Rissler, Director, 2905 Nob Hill Drive, Casper, Wyoming 82601.

Harmon H. Watt, Director, 420 East Park Avenue, Riverton, Wyoming 82501.

Wyoming Industrial Development Corporation, Sole Shareholder 100, 145 South Durbin Street, P.O. Box 612, Casper, Wyoming 82602.

Wyoming Industrial Development Corporation (WIDC) is a private, for profit, company organized for the purpose of creating quality growth and adding industrial diversification to the economy of Wyoming. WIDC has a pool of funds for making loans and investments and also offers promotional capabilities and management consulting services for financial planning and economic feasibility analyses. The University of Wyoming Foundation is the only 10 or more percent stockholder of WIDC.

The Applicant proposes to begin operations with a capitalization of \$305,000 and will be a source of equity capital and long term loans for qualified small business concerns. The Applicant intends to render management consulting services to small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20410.

A copy of this Notice will be published in a newspaper of general circulation in Casper, Wyoming.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: June 6, 1979.

Peter F. McNeish,
Deputy Associate Administrator for Finance
and Investment.

[FR Doc. 79-18268 Filed 6-12-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1643]

Maryland; Declaration of Disaster Loan Area

Carroll County and adjacent counties within the State of Maryland constitute a disaster area as a result of damage caused by a tornado which occurred on May 23, 1979. Applications will be processed under the provisions of Public Law 94-305. Interest rate is 7% percent. Eligible persons, firms and organizations may file applications for loans for

physical damage until the close of business on August 3, 1979, and for economic injury until the close of business on March 4, 1980 at:

Small Business Administration, District Office, Oxford Building, Room 630, 8600 LaSalle Road, Towson, Maryland 21204.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: June 4, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-18286 Filed 6-12-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1616; Amendment No. 5]

Mississippi; Declaration of Disaster Loan Area

The above numbered Declaration (See 44 FR 24179), amendment No. 1 (See FR 26232) and amendment No. 2 (See 44 FR 27782), amendment No. 3 (See FR 29189), and amendment No. 4 (See FR 31339), are amended in accordance with the President's declaration of April 16, 1979, to include the City of Greenville in the State of Mississippi. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above-named city in the State of Mississippi. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on June 15, 1979, and for economic injury until the close of business on January 15, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 17, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-18286 Filed 6-12-79; 8:45 am]

BILLING CODE 8025-01-M

[License No. 07/07-5081]

REC Business Opportunities Corp.; License Surrender

Notice is hereby given that REC Business Opportunities Corporation (REC), 316 Fifth Street, Racine, Wisconsin 53403 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). REC was licensed by the Small Business Administration on October 23, 1979.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender

of the license was accepted on May 31, 1979, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 6, 1979.

Peter F. McNeish,
Deputy Associate Administrator for Finance and Investment.

[FR Doc. 79-18287 Filed 6-12-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1642]

Texas; Declaration of Disaster Loan Area

Limestone and McLennan counties within the State of Texas constitute a disaster area as a result of damage caused by excessive rain, high winds and flooding which occurred on May 10-12, 1979. Applications will be processed under the provisions of Public Law 94-305. Interest rate is 7½ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 30, 1979 and for economic injury until the close of business on February 29, 1980 at:

Small Business Administration, District Office, 1100 Commerce Street, Dallas, Texas 75242.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 31, 1979.

William H. Mauk, Jr.,
Acting Administrator.

[FR Doc. 79-18290 Filed 6-12-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1644]

Texas; Declaration of Disaster Loan Area

Cameron, Hidalgo and Willacy Counties and adjacent counties within the State of Texas constitute a disaster area as a result of damage caused by hail, rain, winds and tornadic winds which occurred on April 17, 29 and 30, 1979. Applications will be processed under the provisions of Public Law 94-305. Interest rate is 7½ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 3, 1979, and for economic injury until the close of business on March 4, 1980, at:

Small Business Administration, District Office, 222 E. Van Buren, Suite 500, Harlingen, Texas 78550.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: June 4, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-18291 Filed 6-12-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Certain Steel I-Beams From Belgium; Antidumping: Tentative Determination of Sales at Not Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Tentative Negative Determination.

SUMMARY: This notice is to advise the public that no sales of certain steel I-beams from Belgium to the United States at less than fair value within the meaning of the Antidumping Act, 1921, have been found. Sales at less than fair value generally occur when the price of the merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. Interested persons are invited to comment on this action not later than July 13, 1979.

EFFECTIVE DATE: June 13, 1979.

FOR FURTHER INFORMATION CONTACT: John R. Kugelman, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION:

Information was received on January 2, 1979, from counsel acting on behalf of Connors Steel Company, alleging that certain steel I-beams from Belgium were being sold at less than fair value, thereby causing injury to, or the likelihood of injury to, or the prevention of establishment of, an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the Federal Register of February 9, 1979 (44 FR 8408-9).

For purposes of this investigation, the term "certain steel I-beams" means hot-rolled steel I-beams, with symmetrical flanges or with one or more flanges

offset, less than six inches in height and weighing not over 4-½ pounds per linear foot, provided for under item number 609.80 of the Tariff Schedules of the United States Annotated (TSUSA).

Tentative Determination of Sales at Not Less Than Fair Value

On the basis of information developed in the Customs' investigation and for the reasons stated below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that there are no reasonable grounds to believe or suspect that the purchase price of these I-beams from Belgium is less than fair value, and thereby foreign market value, of such or similar merchandise.

Statement of Reasons on Which This Determination is Based

The reasons and bases for the above determination are as follows:

a. *Scope of the Investigation.* It appears that all or virtually all of the subject merchandise imported from Belgium were manufactured by S.A. Cockerill-Ougree-Providence-et-Esperance-Longdoz. Therefore, the investigation was limited to this manufacturer.

b. *Basis of Comparison.* For purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between the purchase price and the home market price of such merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales to the United States of these I-beams from Belgium appear to be made to unrelated purchasers in the United States prior to the dates of exportation. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such merchandise appears to have been sold in the home market in sufficient quantities to provide an adequate basis of comparison for fair value purposes. In accordance with § 153.31(b) Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales of this merchandise to the U.S. involving shipments during the period August 1, 1978 through January 31, 1979, and home market sales occurring at or about the time of sales to the U.S.

c. *Purchase Price.* For the purposes of this tentative determination, since all merchandise was purchased, or agreed to be purchased, prior to the time of exportation by the persons by-whom or for whose account it was imported, within the meaning of section 203 of the Act, purchase price has been calculated

on the basis of the f.o.b. Antwerp prices to United States purchasers, with a deduction for Belgian inland freight.

d. *Home Market Price.* For the purposes of this tentative determination, the home market price was calculated on the basis of the weighted average delivered prices to both related and unrelated purchasers, with appropriate deductions for Belgian inland freight. Sales to related purchasers were considered to be arm's length transactions since they did not occur at prices less than those applicable to sales to unrelated purchasers. No other adjustments were claimed or allowed.

e. *Results of Fair Value Comparisons.* Using the above criteria, purchase price was found to be not less than the home market price of such merchandise. Comparisons were made on approximately 100 percent of the sales of these I-beams to the United States from Belgium during the period of investigation. In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, D.C. 20229, in time to be received by his office not later than June 28, 1979. Such requests must be accompanied by a statement outlining the issues wished to be discussed, which issues may be discussed in greater detail in a written brief.

Any written views or arguments should be addressed in ten copies to the Commissioner of Customs in time to be received in his office no later than July 13, 1979. All persons submitting written views or arguments should avoid repetitious and merely cumulative material. Counsel for the petitioner and respondent are also requested to send to each other all written submissions, including non-confidential summaries or approximated presentations of all confidential information.

This tentative determination and the statement of reasons therefor are published pursuant to § 153.34(a), Customs Regulations (19 CFR 153.34(a)).

Robert H. Mundheim,
General Counsel of the Treasury.

June 7, 1979.

[FR Doc. 79-18417 Filed 6-12-79; 8:45 am]

BILLING CODE 4810-22-M

Elemental Sulphur From Mexico; Tentative Determination To Modify or Revoke Dumping Finding

AGENCY: U.S. Treasury Department.

ACTION: Tentative modification or revocation of finding of dumping.

SUMMARY: This notice is to advise the public that it appears that elemental sulphur from Mexico is no longer being sold to the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. In addition, the concerned exporters have given assurances that future sales will not be at less than fair value. If this action is made final, imports of this merchandise from Mexico on or after the effective date of this notice will no longer be liable for special dumping duties under the Antidumping Act, 1921. Interested persons are invited to comment on this action.

EFFECTIVE DATE: June 13, 1979.

FOR FURTHER INFORMATION CONTACT: Richard Rimlinger, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: A finding of dumping with respect to elemental sulphur from Mexico was published as Treasury Decision 72-179 in the Federal Register of June 28, 1972 (37 FR 12727).

On January 5, 1978, the finding of dumping was modified to exclude elemental sulphur produced and sold by Azufrera Panamericana, S.A. (Azufrera) (43 FR 954).

After due investigation, it has been determined tentatively that elemental sulphur from Mexico is no longer being, nor is likely to be, sold to the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*).

Statement of Reasons on Which This Tentative Determination Is Based

The investigation indicated that all shipments of elemental sulphur from Mexico to the United States since 1974, have been made at not less than fair value. Sulphur produced by three Mexican companies was sold to the United States during that period. Although sulphur produced by Azufrera has already been excluded from the finding, sulphur produced by Petroleas Mexicanos (Pemex) but marketed by Azufrera and that which was both

produced and sold by Compania Exploradora del Istmo, S.A. (CEDI) were not so excluded. Written assurances now have been given by Azufrera and CEDI—the only companies actually engaged in sales to the United States—that future sales of elemental sulphur to the United States marketed by them will not be made at less than fair value.

Accordingly, notice is hereby given that the Department of the Treasury intends to revoke the finding of dumping on elemental sulphur from Mexico.

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views. A copy of all submissions should be delivered to any counsel that has heretofore represented any parties in these proceedings.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW, Washington, D.C. 20229, in time to be received by his office not later than June 25, 1979. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than July 13, 1979.

This notice is published pursuant to § 153.44(c) of the Customs Regulations (19 CFR 153.44(c)).

Robert H. Mundheim,
General Counsel of the Treasury.
June 7, 1979.

[FR Doc. 79-18418 Filed 6-12-79; 8:45 am]
BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

[Twenty-Sixth Revised Exemption No. 129]

Atlanta & Saint Andrews Bay Railway Co., et al; Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

It appearing, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments

to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C. RER 6410-A, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company, Reporting Marks: ASAB
Chicago, West Pullman & Southern Railroad Company, Reporting Marks: CWP
Illinois Terminal Railroad Company, Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company, Reporting Marks: LNAC
Missouri-Kansas-Texas Railroad Company, Reporting Marks: MKT-BKTY

Effective 12:01 a.m., June 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., May 25, 1979.

Interstate Commerce Commission
Joel E. Burns,
Agent.
[FR Doc. 79-16405 Filed 6-12-79; 8:45 am]
BILLING CODE 7035-01-M

[Exception No. 3 to Corrected Second Revised Service Order No. 1301]

Chicago, Rock Island and Pacific Railroad Co.

Pursuant to the authority vested in me by section (a)(4) of Corrected Second Revised Service Order No. 1301, the Chicago, Rock Island and Pacific Railroad Company is authorized to use 40-ft., narrow-door plain boxcars owned by Burlington Northern Inc. for loading at stations in the State of Oklahoma, and destined to any station designated by the shipper, regardless of the provisions of Section (a)(3) of Corrected Second Revised Service Order No. 1301 which authorizes these cars to be loaded to any station on the lines of Burlington Northern Inc.

*Effective June 1, 1979.
Expires June 19, 1979.*

¹ Addition
*** Richmond, Fredericksburg and Potomac Railroad Company deleted.

Issued at Washington, D.C., May 31, 1979.

Joel E. Burns,
Director, Bureau of Operations.
[FR Doc. 79-13473 Filed 6-12-79; 8:45 am]
BILLING CODE 7035-01-M

[Exemption No. 167]

Chicago, Rock Island and Pacific Railroad Co.; Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

There has been a substantial increase in the demand for 40-ft., narrow-door plain boxcars for shipments of grain from stations on the Chicago, Rock Island and Pacific Railroad Company (RI) in the State of Oklahoma. There are substantial shortages of these cars on the lines of RI, and RI is unable to furnish shippers 40-ft., narrow-door plain boxcars of suitable ownership to move the present grain harvest.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19:

The Chicago, Rock Island and Pacific Railroad Company is authorized to accept from shippers, within the State of Oklahoma, 40-ft., narrow-door plain boxcars less than 40-ft., 6-in., in length and bearing mechanical designation "XM" as listed in the Official Railway Equipment Register ICC RER 6410-A, issued by W. J. Trezise, or successive issues thereof, regardless of the provisions of Car Service Rules 1 and 2.

It is further ordered,

This exemption shall not apply to cars of Mexican or Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' Orders requiring return of cars to owner.

*Effective June 1, 1979.
Expires June 19, 1979.*

Issued at Washington, D.C., May 31, 1979.
Interstate Commerce Commission
Joel E. Burns,
Agent.

[FR Doc. 79-13474 Filed 6-12-79; 8:45 am]
BILLING CODE 7035-01-M

[Decision No. 37149]

Kansas Intrastate Freight Rates and Charges—1979

Decided: June 4, 1979

By petition filed March 20, 1979, The Atchison, Topeka and Santa Fe Railway (Atchison) operating in intrastate commerce in Kansas, requests that this Commission institute an investigation of its Kansas Intrastate freight rates and

charges, under 49 U.S.C. 11501 and 11502. Atchison seeks an order authorizing it to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 357. Atchison has stated grounds sufficient to warrant instituting an investigation. Atchison has also requested that certain railroads operating in Kansas be made parties to this proceeding. This request will not be granted.

The Atchison allegation that "the State Corporation Commission of the State of Kansas . . . presumably would deny the application of other Kansas rail carriers" does not establish that this Commission should name as respondents the other railroads operating in Kansas absent a request on their behalf.

The St. Louis-San Francisco Railway Company (Frisco), the Missouri-Kansas-Texas Railroad Company (Missouri) and the Union Pacific Railroad Company (UP), filed letter requests to be joined as respondents in this proceeding as a result of the failure of the State Corporation Commission of the State of Kansas to grant an increase based on the increase authorized by the Commission in Ex Parte 357. These petitions will be granted.

It is ordered: The Atchison petition for investigation and the requests of the Frisco, Missouri and UP are granted. An investigation, under 49 U.S.C. 11501 and 11502, is instituted to determine whether the Kansas intrastate rail freight rates maintained by the Atchison, Frisco, Missouri, and UP in any respect cause any unjust discrimination against or any undue burden on their interstate or foreign commerce operations, or cause undue or unreasonable advantage, preference, or prejudice as between persons or localities in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 357. In the investigation we shall also determine if any rates or charges, or maximum or minimum charges, or both, should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before 15 days from the Federal Register Publication date.

Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as practicable after the last day for indicating a desire to participate in the proceeding, this Commission will serve a list of names and addresses on all persons upon whom service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of this decision shall be served upon petitioner Atchison, the Frisco, the Missouri, and the UP and copies shall be sent by certified mail to the State Corporation Commission of the State of Kansas and the Governor of Kansas. Further notice of this proceeding shall be given to the public by deposition a copy of this decision in the Office of the Secretary of the Interstate Commerce Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the Federal Register.

This is not a major Federal action significantly affecting the quality of the human environment. Furthermore, this decision is not a major regulatory action under the Energy Policy and Conservation Act of 1975.

By the Commission, Alan Fitzwater,
Director, Office of Proceedings.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-12411 Filed 6-12-79; 8:45 am]
BILLING CODE 7035-01-M

[Notice No. 59]

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is

predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 14252 (Sub-39TA), filed January 10, 1979, and published in the Federal Register issue of February 23, 1979, and republish as corrected this issue.

Applicant: COMMERCIAL LOVELOCE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, Ohio 43227.

Representative: William C. Buckham, 3400 Refugee Road, Columbus, Ohio 43227. Common carrier-regular route.

General commodities, except those of unusual value, class A or B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment (1) Between Danville, IL and Junction IL Hwy. 1 and U.S. Hwy. 24; from Danville, IL over IL Hwy. 1 to the junction of U.S. Hwy. 24 at or near Watseka, IL and return over the same route. (2) Between the Junction of IL Hwy. 1 and U.S. Hwy. 24, and Gilman, IL from the Junction of IL Hwy. 1 and U.S. Hwy. 24 over U.S. Hwy. 24 to Gilman, IL, and return over the same route. (3) Between Gilman, IL and Champaign, IL from Gilman, IL over U.S. Hwy. 45 to Champaign, IL and return over the same route. (4) Between Onarga, IL and the Junction of IL Hwy. 54 and U.S. Hwy. 150 from Onarga, IL over IL Hwy. 54 to the junction of IL Hwy. 54 and U.S. Hwy. 150, and return over the same route. (5) Between Junction U.S. Hwys. 24 and IL Hwy. 49, and the Junction of IL Hwy. 49 and U.S. Hwy. 150 from the junction of U.S. Hwy. 24, and IL Hwy. 49 at or near Crescent City, IL over IL Hwy. 49 to the Junction

of U.S. Hwy. 150 and return over the same route. Service is authorized at all intermediate points on the above described routes and at the off-route point of East Lynn, IL. The purpose of this republication is to completely show the territorial description, as filed. Supporting shipper(s): "There are (14) shippers. Their statements may be examined at the office listed below and Headquarters." Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

MC 109533 (Sub-109TA), filed March 22, 1979, and published in the Federal Register issue of May 1, 1979, and republish as corrected this issue. Applicant: OVERNITE TRANSPORTATION CO., 1000 Semmes Avenue, Richmond, VA 23224. Representative: E. T. Liipfert, 1660 L Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting *general commodities (except those of unusual value, classes A & B explosives, household goods as described by the Commission, commodities in bulk and those requiring special equipment)*, (1) between Louisville, KY, and Hazel, KY, from Louisville, KY over Interstate Hwy 65 to the junction of United States Western KY Parkway, thence over Western KY Parkway to the junction of U.S. Hwy 62, thence over U.S. Hwy 62 to junction of Purchase Parkway, thence over Purchase Parkway to Benton, KY, thence over U.S. Hwy 641 to Hazel and return over the same route serving all intermediate points; (2) between Madisonville, KY and the junction of U.S. Alternate Hwy 41 and Western KY Parkway over U.S. Alternate Hwy 41 serving all intermediate points; (3) between Paducah, KY and Western KY Parkway over U.S. Hwy 62 serving all intermediate points; (4) In connection with routes 1, 2 and 3, serving all points in the counties of Breckenridge, Bullitt, Butler, Caldwell, Calloway, Christian, Crittenden, Daviess, Edmonson, Grayson, Hancock, Hardin, Hart, Henderson, Hopkins, Jefferson, Larue, Livingston, Logan, Lyon, McCracken, McLean, Marshall, Meade, Muhlenberg, Ohio, Todd, Trigg, Union, and Webster Counties as off-route points; (5) In connection with routes 1, 2 and 3, serving the commercial zones of the termini and intermediate points, for 180 days. An underlying ETA seeks 90 days of authority. Supporting Shipper(s): There are 343 supporting shippers to this

application. Their statements may be examined at the office listed below and at Headquarters. Send Protests To: Paul D. Collins, DS, ICC, Rm. 10-502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240. The purpose of this republication is to correctly show the complete territorial description which was previously omitted.

MC 109692 (Sub-84TA), filed April 10, 1979. Applicant: GRAIN BELT TRANSPORTATION CO., Route 13, Kansas City, MO 64161. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. (1) *Iron and steel tanks, and parts, components and accessories therefor* from the Kansas City, MO-KS Commercial Zone to points in AR, IL, IN, KY, LA, MN, ND, OH, SD, TN, and WI; and (2) materials, equipment and supplies used in the manufacture of the commodities named in (1) above from points in AR, IL, IN, KY, LA, MN, ND, OH, SD, TN and WI to the Kansas City, MO-KS Commercial Zone for 180 days. Supporting Shipper(s): Butler Manufacturing Co., 7400 East 13th Street, Kansas City, MO 64128. Send protests to: Vernon V. Coble, DS, ICC, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.

MC 110683 (Sub-137TA), filed March 20, 1979, and published in the Federal Register issues of April 24, 1979 and May 18, 1979, and republish as corrected this issue. Applicant: SMITH'S TRANSFER CORP., P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McNerny, 1000 16th Street, NW., Washington, DC 20036. The scope of this application remains as previously published. The purpose of this republication is to show that the applicant intends to tack the authority sought with its existing authority, in addition to correctly show the destination as Barren, KY in lieu Barne and to correctly show that KY Hwy 611 should read KY Hwy 61.

MC 116323 (Sub-3TA), filed April 27, 1979. Applicant: STEGALL MILLING CO., INC., P.O. Box 607, Marshville, NC 28103. Representative: Archie B. Culbreth, Attorney At Law, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Cement and Mortar Mixes, including cement and mortar mixed with rock, sand or other aggregates, cold mix asphalt, sand, vinyl concrete patcher, lime, masonry coating, tile grout, hydraulic cement, adhesives, and advertising matter, in bags or containers*, from the facilities of W. R. Bonsal Company at or near Lilesville, NC to points in GA, SC, TN, and VA, and (2) Materials, equipment, and supplies used in the manufacture or

distribution of commodities named in (1) above (except commodities in bulk in tank vehicles) from points in GA, SC, TN, and VA to the facilities of W. R. Bonsal Company at or near Lilesville, NC for 180 days. An underlying ETA seeks 90 days of authority. Supporting shipper(s): W. R. Bonsal Company, P.O. Box 38, Lilesville, NC 28091. Send protests to: Terrell Price, DS, ICC, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 116763 (Sub-503TA), filed April 30, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *Malt beverages and malt syrups, and related advertising materials (except commodities in bulk, in tank vehicles)*, from the facilities of Anheuser-Busch, Inc., at or near St. Louis, MO, to points in CT, ME, MA, NH, NJ, NY, RI, VT, VA, DE, DC, MD and PA. Restricted to traffic originating at the named origin and destined to the indicated destination, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anheuser-Busch, Inc., Arland Nottmeier, Traffic Manager, 721 Pestalozzie St., St. Louis, MO 63118. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 116763 (Sub-505TA), filed May 2, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary Jira (same address as applicant). *Such commodities as are manufactured, processed, or dealt in by manufacturers of rubber products (except commodities in bulk, in tank vehicles)*, from points in and east of MN, IA, MO, OK, and TX, to the facilities of J & L distributing Co. located at or near Chicago, IL and Milwaukee, WI (restricted to traffic originating at the named origins and destined to the indicated destinations) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J & L Distributing Company, Inc., 1419 St. Paul Ave., Milwaukee, WI 53233. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 116763 (Sub-506TA), filed April 24, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *Such materials, equipment and supplies used in the manufacturing, processing and distribution of paper and paper products (except commodities in bulk, in tank vehicles)*, from points in the U.S. (except AK and HI) to the facilities of Bergstrom Paper Co., a division of P. H. Glatfelter

Co., located at or near Neenah, WI, and West Carrollton, OH. Restricted to traffic originating at the named origin territory and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bergstrom Paper, Division of P. H. Glatfelter Co., Dan Sauve, Traffic Manager, Bergstrom R., Neenah, WI 54956. Send protests to: Bureau of Operations, ICC, 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 116763 (Sub-507TA), filed April 26, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). (1) *Such merchandise as is dealt in by wholesale, retail, chain grocery and feed business houses, soy products, paste, flour products, dairy based products and (2) materials, ingredients and supplies used in the manufacture, distribution and sale of items in (1) above (except in bulk, in tank vehicles)*, between the facilities of Ralston Purina Company on the one hand, and, on the other, points in and east of ND, SD, NE, CO and NM, for 180 days. Restricted to traffic originating at, or destined to, the facilities of Ralston Purina Company in the authorized territory. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, L. N. Brown, Coordinator, Motor Transportation, Checkerboard Square, St. Louis, MO 63188. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 116763 (Sub-508TA), filed April 18, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *Such materials and supplies as are used in the manufacturing, distribution, packaging, warehousing and sale of foodstuffs (except commodities in bulk, in tank vehicles)*, from points in the U.S. in and east of MN, IA, MO, OK, and TX to Greenville, MS, for 180 days. Restricted to traffic originating at the named origin territory and destined to the indicated destination. An underlying ETA seeks 90 days authority. Supporting shipper(s): Uncle Ben's Foods, Clifford W. Rieger, Traffic Manager, P.O. Box 1752, Houston, TX 77001. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 119493 (Sub-284TA), filed April 11, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same as applicant). *Furniture parts, and*

materials and supplies used in the manufacture and distribution thereof (except in bulk) between FL, GA, IL, MO, KY, MA, MI, NJ, NC, OH, and TX; restricted to traffic originating at or destined to the facilities of Leggett & Platt, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Leggett & Platt, Inc., P.O. Box 757, Carthage, MO 64836. Send protests to: John V. Barry, DS, ICC, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.

MC 119493 (Sub-285TA), filed April 13, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same as applicant). *Iron & Steel articles from facilities of Armco, Inc., at or near Ashland, KY and Middletown, OH to points in AR, KS, IA, MN, MO, NE, OK, TX, CO, MS, and LA. for 180 days.* Supporting shipper(s): Armco, Inc., 703 Curtis St., Middletown, OH 45043. Send protests to: John V. Barry, D/S, ICC, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.

MC 119493 (Sub-286TA), filed April 17, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same as applicant). *Plastic articles from Springfield, IL to AL, AR, IA, KS, MO, MS, NE, ND, OK, SD, and TN, for 180 days.* An underlying ETA seeks 90 day authority. Supporting shipper(s): Contractor Utility Sales Company, P.O. Box 2937, Springfield, IL 62701. Send protests to: John V. Barry, D/S, ICC, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 119493 (Sub-287TA), filed April 17, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same as applicant). *Personal sanitary products (Internal or External); Toilet preparations; Cosmetics; and Clothing,* from points in IL to points in AL, AR, KS, LA, MO, MS, OK, TN, and TX, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Personal Products Company, Kankakee River Drive, Wilmington, IL 60481. Send protests to: John V. Barry, D/S, ICC, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 121473 (Sub-2TA), filed April 26, 1979. Applicant: VENCO TRUCKING, INC., R.D. No. 3, Emlenton, PA 16837. Representative: Guy Shoup (same address). *Petroleum products in packages, from Rouseville and Reno, PA to points in Ohio and New York, for 180 days.* An underlying ETA seeks 90 day authority. Supporting shipper(s): Pennzoil Company, P.O. Box 808, Oil

City, PA 16301. Send protests to: J. J. England, D/S, ICC, 2111 Federal Bldg., Pittsburgh, PA 15222.

MC 121712 (Sub-2TA), filed April 30, 1979. Applicant: MORRIS TRANSPORTATION, INC., 8300 Baldwin St., Oakland, CA 94621. Representative: W. H. Walker, Attorney-at-Law, 100 Pine St., Rm 2550, San Francisco, CA 94111. 180 days common carrier by motor vehicle over irregular routes, *tinplate*, from points in California to facilities of Continental Can Co., Portland, OR. An underlying ETA seeks 90 day authority. Supporting shipper(s): American Tinplate Exporters, Inc., 8300 Baldwin St., Oakland, CA 94621. Send protests to: A. J. Rodriguez, D/S, ICC, 211 Main St., Suite 500, San Francisco, CA 94105.

MC 121712 (Sub-3TA), filed April 30, 1979. Applicant: MORRIS TRANSPORTATION, INC., 8300 Baldwin St., Oakland, CA 94621. Representative: W. W. Walker, Attorney-at-Law, 100 Pine St., Rm. 2550, San Francisco, CA 94111. 180 days common carrier by motor vehicle, over irregular routes: (1) *scaffolding, shoring and related steel items* between facilities of Waco Scaffold & Shoring Co., San Leandro and Long Beach, CA, on the one hand, and, on the other points in NV and AZ. (2) *Refractory material* from Gabbs, NV to facilities of Judson Steel Corp., Emeryville, CA. (3) *Materials, tools, and supplies used in concrete construction* between points in California, on the one hand, and, on the other, Reno, Sparks, Carson City and Winnemucca, NV. Supporting shipper(s): Judson Steel, 42 Eastshore Highway, Emeryville, CA 94609; Burke Co., 1730 Lathrop Way, Sacramento, CA 95815; Waco Scaffold & Shoring Co., 1999 Republic Ave., San Leandro, CA 94577. Send protests to: District Supvr. A. J. Rodriguez, ICC, 211 Main St., Suite 500, San Francisco, CA 94105.

MC 123502 (Sub-52TA) filed April 20, 1979. Applicant: FREE STATE TRUCK SERVICE, INC., P.O. Box 760, Glen Burnie, MD 21061. Representative: W. Wilson Corroum (same as above). *Petroleum Fuel Oil Flue Dust*, in bulk, in dump vehicles, from Oswego, NY, Portsmouth and Strasburg, VA to Bellaire, OH and Freeport, PA, for 180 days. An underlying ETA for 90 days has been filed. Supporting shipper(s): Walter L. Jaffe, Philipp Brothers, 1221 Avenue of the Americas, New York, NY 10020. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD.

MC 125023 (Sub-71TA) filed April 27, 1979. Applicant: SIGMA-4 EXPRESS,

INC., 3825 Beech Avenue, P.O. Box 9117, Erie, PA 16504. Representative: Richard G. McCurdy (same as applicant). (1) Corrugated Cardboard Containers from points in Onondaga and Oswego Counties, NY to Washington, PA and (2) Glass Containers from Washington, PA to points in Onondaga County, NY and Oswego County, NY (except South Volney, NY) for 180 days. An underlying ETA seeks 90 days operating authority. Supporting shipper(s): Miller Brewing Company, 3939 W. Highland Blvd., Milwaukee, WI 53208. Send protests to: J. J. England, DS, ICC, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 125433 (Sub-257TA), filed April 26, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). (1) *Lift and hoist trucks*, (2) *tractors (other than truck tractors)*, and (3) *attachments and accessories for items named in (1) and (2) above*, from the facilities of Towmotor Corp. located at or near Mentor, OH to NM, CO, WY, MT, ID, NV, UT, AZ, CA, OR and WA, for 180 days. Supporting shipper(s): Towmotor Corporation, 100 NE Adams Street, Peoria, IL 61629. Send protest to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125433 (Sub-258TA) filed April 16, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). *Batteries, scrap batteries, parts, attachments, accessories and supplies used in connection with batteries, and equipment, materials and supplies used in the manufacture or distribution of batteries*, between the facilities of Chloride Co., Inc. located at or near Florence, MS; Columbus, GA; Raleigh, NC; Tampa, FL; and Beaverton, OR, on the one hand, and, on the other, points in the United States, for 180 days. An underlying ETA requests 90 days authority. Supporting shipper(s): Chloride Incorporated, 3507 South 50th Street, Tampa, FL 33601. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 127053 (Sub-1TA), filed April 20, 1979. Applicant: ALERT MESSENGER SERVICE, INC. d.b.a. AVAK MESSENGER SERVICE, 28 East Winant Avenue, Ridgefield Park, NJ 07660. Representative: Henry Lopez, 28 East Winant Avenue, Ridgefield Park, NJ 07660. *General commodities*, except those of unusual value, and except

dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious of contaminating to other lading, not to exceed 500 lbs. per shipment. Between Bergen and Passaic Counties, NJ and points within 350 miles of New York, NY, for 180 days. Supporting shipper(s): There are six (6) supporting shippers on file at Newark, NJ and Washington, DC. Send protests to: Joel Morris, DS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 128383 (Sub-85TA), filed April 24, 1979. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, PA 19079. Representative: Leonard C. Zucker (same as applicant). *General Commodities, except commodities in bulk and commodities injurious to other lading, and Class A and B Explosives, restricted to shipments having a prior or subsequent movement by air*, between the airport cities of Charlotte, NC; Greenville, SC; and Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 7 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: T. M. Esposito, TA, ICC, 600 Arch St., Rm. 3238, Phila., PA 19106.

MC 128633 (Sub-4TA), filed April 30, 1979. Applicant: LAUREL HILL TRUCKING CO., 614 New County Road, Secaucus, NJ 07094. Representative: William J. Augello, Esq., Augello, Pezold & Herschmann, P.C., 120 Main Street, P.O. Box Z, Huntington, NY 11743. Contract, irregular. *Drugs, medicines, toilet preparations, and materials, equipment and supplies used in the manufacture of drugs, medicines and toilet preparations*. (1) Between New York, NY; Elkhart, IN and Hammonton, NJ; (2) from Elkhart, IN to Forest Park, GA; Dallas, TX and Lenexa, KS; (3) from St. Louis, MO to Hammonton, NJ and Elkhart, IN; (4) From Hammonton, NJ to Forest Park, GA and Dallas, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Whitehall Laboratories-685 Third Avenue, New York, NY 10017. Send protests to: Robert E. Johnston, D/S, ICC, 9 Clinton, St., Room 618, Newark, NJ 07102.

MC 129032 (Sub-85TA), filed April 19, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 So. 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). (1) *Malt*

beverages and related advertising materials, and (2) *empty, used beverage containers and materials and supplies used in and dealt with by breweries*, from (1) Jefferson County, CO, to MO and WA, and (2) from WA and MO, to Jefferson County, CO, restricted to traffic originating at or destined to the above named locations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Adolph Coors Company, Golden, CO 80401. Send protests to: District Supervisor, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 129032 (Sub-86TA), filed April 26, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 So. 49th West Avenue, Tulsa, OK 74107. Representative: David Worthington (same address as applicant). *Glass containers and returned pallets*, between the facilities of Midland Glass Company, at or near Henryetta, OK, on the one hand, and, on the other, MI and WI, restricted to traffic originating at or destined to the above named origin, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midland Glass Company, Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: District Supervisor, ICC, Room 240 Old Post Office, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 134813 (Sub-11TA), filed May 1, 1979. Applicant: WESTERN CARTAGE, INC., an Oklahoma Corporation, 2921 Dawson Road, Tulsa, OK 74110. Representative: Michael R. Vanderburg, Atty., 5200 South Yale, Tulsa, OK 74135. *Motor vehicle parts and accessories, machine parts and accessories and the tools used in their manufacture, powered metals, casings, fasteners, and coatings*. Between the plant sites of Holley Carburetors in Warren, Michigan, Watervally, Mississippi, Bowling Green, Kentucky, Paris, Tennessee and Sallisaw, Oklahoma on the one hand; and the points in the states of AL, AR, GA, IL, IN, IA, KY, MI, MN, MO, MS, OH, OK, TN, and WI on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Holley Carburetor Division Special Products, P.O. Box 827, Sallisaw OK 74955. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office Bldg, 215 N.W. Third, Oklahoma City, OK 73102.

MC 135213 (Sub-17TA), filed May 2, 1979. Applicant: JOE GOOD d.b.a., GOOD TRANSPORTATION, P.O. Box 335, Lovell, WY 82431. Representative:

John T. Wirth, 717—17th Street, Suite 2600, Denver, CO 80202. *Contract carrier, irregular routes: Gypsum, gypsum wall board, joint systems, and materials and supplies, related to the application thereof, from facilities of Georgia-Pacific Corporation at or near Acme, TX to points in the state of CO, for 180 days. RESTRICTIONS: (1) Restricted against the transportation of commodities in bulk and (2) Restricted to transportation performed under a continuing contract or contracts with Georgia-Pacific Corporation. An underlying ETA seeks 90 days authority. Supporting shipper(s): Georgia-Pacific Corporation, 900 S.W. Fifth Ave., Portland, OR 97204. Send protests to: Paul A. Naughton, D/S ICC, Rm 105 Federal Bldg. 111 South Wolcott, Casper, WY 82601.*

MC 135283 (Sub-50TA), filed April 20, 1979. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, Grand Island, NE 68801. Representative: Lloyd A. Mettenbrink (same address as applicant). *General commodities (except articles of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) from (A) Hastings and Grand Island, NE, to points in CO, IA, KS, NE, and WY, and (B) from points in AR, IL, KS, and TX to Grand Island, NE. Restricted in both A & B to traffic destined to the facilities of Wheeler Stores, Division of Peavey Co. An underlying ETA seeks 90 days authority. Supporting shipper(s): Morris Nitzel, Distribution Manager, Wheeler Stores Division of Peavey Co., P.O. Box E, Grand Island, NE 68801. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE 68508.*

MC 135283 (Sub-51TA), filed April 23, 1979. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, Grand Island, NE 68801. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. (1) *Iron and steel articles*, (a) from Chicago, IL, and points in its commercial zone, to the facilities of Howland Manufacturing Corp., at or near Kearney, NE; and (b) from Chicago, IL, and Milwaukee, WI, and points in their commercial zones, to the facilities of Ag Tronic, Inc., at or near Kearney, NE and Hastings, NE, and Caldwell Manufacturing Co., at or near Kearney, NE. (2) *Electric heaters*, from St. Louis, MO, and points in its commercial zone, to the facilities of Caldwell Manufacturing Co., at or near Kearney, NE. (3) *Screen guards*, from

Neosho, MO, and points in its commercial zone, to the facilities of Caldwell Manufacturing Co., at or near Kearney, NE. (4) *Parts, materials, equipment and supplies used in the manufacture, sale and distribution of standby power units* (except in bulk), from points in IA to the facilities of Ag Tronic, Inc., at or near Kearney, NE, for 180 days. Supporting shipper(s): Howland Manufacturing Corp., 305 East 8th Street, Kearney, NE 68467; Ag Tronic, Inc., R.R. 1—Airport Road, Kearney, NE 68467; Caldwell Manufacturing Company, P.O. Box 338, Kearney, NE 68467. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 138882 (Sub-240TA), filed May 2, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). *Glass*, from Laurinburg and Clinton, NC, to points in the U.S. (except HI, AK, and NC), for 180 days. Supporting shipper(s): Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43695. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 139083 (Sub-7TA), filed April 30, 1979. Applicant: BUILDING SYSTEMS TRANSPORTATION, INC., P.O. Box 142, 10650 Route 22, East, Washington Court House, OH 43160. Representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. *Iron and steel articles*, (1) from Ashland, KY to points in IN; (2) from Ashland, KY to Longview, TX; (3) from Washington Court House, OH to Longview, TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armco, Inc., 703 Curtis St., Middletown, OH 45042. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 139353 (Sub-7TA), filed April 27, 1979. Applicant: DAVIE TRUCKERS, INC., Rt. 1, Advance, NC 27006. Representative: W. P. Sandridge, Jr., Attorney, 2400 Wachovia Bldg., P.O. Drawer 84, Winston-Salem, NC 27102. *Contract: irregular: grains, pressed grains, dry grains, and waste yeast*. From Dougherty, Worth, Lee, Terrell, Baker, Mitchell, Turner, and Sumter, Counties, GA to various locations in the states of AL, FL, GA, LA, MS, NC, SC, and TN for 180 days. An underlying ETA seeks 90 days of authority. Supporting shipper(s): The Pillsbury Company, Mail Station M363, 608 2nd Ave., South, Minneapolis, MN 55402. Send protests to: Terrell Price, DS, ICC, 800 Briar

Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 139843 (Sub-4TA), filed April 26, 1979. Applicant: VERNON G. SAWYER, P.O. Drawer B, Bastrop, LA 71220. Representative: Harry E. Dixon, Jr., P.O. Box 4319, Monroe, LA 71203. *Turned wood products* from Bastrop, LA to all points and places in the state of WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Boltz Manufacturing Company, P.O. Box 470, Bastrop, LA 71220. Send protests to: William H. Land, Jr., DS, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 140612 (Sub-69TA), filed April 20, 1979. Applicant: ROBERT F. KAZIMOUR, P.O. 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same address as applicant). *Such commodities as are dealt in or used by retail stores*, (except foodstuffs, alcoholic beverages and commodities in bulk in tank vehicles), from points SD, ND, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, IN, OH, KY, TN, MS, AL, GA, and MI to Northridge, CA and its commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Industries, Inc., 19411 Londellu St., Northridge, CA 91324. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 141783 (Sub-5TA), filed May 2, 1979. Applicant: HARRIGILL TRUCKING COMPANY, P.O. Box 89, Brookhaven, MS 39601. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. (1) *Paper and paper articles* from the facilities of St. Regis Paper Co., Ferguson, MS, to points in AL, AR, LA and TN; and (2) *Equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1) above in the reverse direction, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): St. Regis Paper Company, P.O. Box 608, Monticello, MS 39654. Send protests to: Alan Tarrant, D/S ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 142672 (Sub-62TA), filed April 24, 1979. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. (1) *Electric motors, grinders, buffers, dental lathes, dust collectors, and pedestals*, and (2) *Parts, accessories and attachments* for the commodities named in (1) and (2) above, and (3) *Materials, equipment and supplies* used in the manufacture and distribution of the commodities named

in (1) above, from the facilities of Baldor Electric Company, at or near St. Louis, MO, to the facilities of Baldor Electric Company at or near Columbus, MS and Westville, OK; and from points in the state of OH to the facilities of Baldor Electric Company, at or near Columbus, MS, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Baldor Electric Company, 5711 South Seventh Street, Fort Smith, AR 72901. Send protests to: William H. Land, Jr., D/S, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142703 (Sub-18TA), filed April 30, 1979. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., 750 W. Third St., Cincinnati, OH 45214. Representative: Michael Spurlock, Beery & Spurlock Co., L.P.A., 275 E. State St., Columbus, OH 43215. *Commodities moving in Trailer on Flat Car Service (except commodities in bulk)*, between St. Louis, MO; Danville, IL; and Lafayette, IN, and their respective commercial zones, on the one hand, and on the other, points in IL, IN, KY, lower peninsula of MI, MO, OH, and the following 33 counties of Western PA: Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Franklin, Fulton, Green, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, McKean, Mercer, Mifflin, Potter, Somerset, Venango, Warren, Washington and Westmoreland, for 180 days. Restricted to transportation of shipments having prior or subsequent rail or water movement. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 12 supporting shippers. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 143133 (Sub-2TA), filed March 30, 1979. Applicant: SHEPPARD ENTERPRISES, INC., 101 Philadelphia St., Hanover, PA 17331. Representative: Daniel M. Frey, 31 York St., Hanover, PA 17331. *Contract carrier: irregular routes: power steering units from Hanover, PA to Delaware, OH; pretzels and potato chips from Hanover and Centre Hall, PA to Cincinnati and Toledo, OH, Louisville, KY, Indianapolis, IN, Detroit and Grand Rapids, MI, and Chicago, IL, for 180 days. Supporting shipper(s): R. H. Sheppard Co., Inc., 101 Philadelphia St., Hanover, PA 17331; Hanover Guest Quality Food Corp., Granger St., Hanover, PA 17331. Send protests to: Peter R. Guman, D/S, 600 Arch St., Rm. 3238, Phila., PA 19106.*

MC 144122 (Sub-46TA), filed May 4, 1979. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Common, irreg. Hair care toiletries, hair care accessories and equipment, toilet preparations, beauty and health products and equipment, personal electrical appliances and accessories and parts thereof, and equipment, materials, supplies and ingredients used in the packaging, sale and manufacture thereof (except commodities in bulk) (1) from Stamford, CT, to Dallas, TX; La Mirada and Camarillo, CA; Chicago, IL and Atlanta, Ga, and (2) from La Mirada and Camarillo, CA; to Dallas, TX; Stamford, CT; Chicago, IL and Atlanta, GA; restricted to traffic originating at or destined to the facilities of Clairol, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clairol, Inc., 1 Blachley Road, Stamford, CT 06902. Send protests to: Joel Morrows, D/S, ICC, 9 Clinton St., Rm. 618, Newark, NJ 07102.

MC 144233 (Sub-7TA), filed May 3, 1979. Applicant: RAJEAN, INC., Highway 64 East, Russellville, AR 72801. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. *Goods utilized by manufacturers and distributors of auto parts between Murfreesboro, TN, on the one hand, and on the other, points and places in the states east of and including the states of ND, SC, NE, KS, OK and TX (except the state of TN); restricted to movements originating at and destined to the facilities of Perfect Equipment Co., as a common carrier over irregular routes, for 180 days. Supporting Shipper(s): Perfect Auto Parts, 751 S. Mallard Drive, Palatine, IL 60067. Send protests to: William H. Land, Jr., D/S, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.*

MC 144303 (Sub-6TA), filed April 27, 1979. Applicant: YOUNGBLOOD TRUCK LINES, INC., U.S. Highway 1048, Fletcher, NC 28732. Representative: H. Charles Ephraim, 1250 Connecticut Ave., NW., Washington, DC 20036. *Contract: irregular: Paper and Paper Articles from Courtland, AL to points in the states of FL, GA, KY, NC, SC, TN, and VA for 180 days. Supporting Shipper(s): Champion International Corporation, Knightsbridge Dr., Hamilton, OH 45020. Send protests to: Terrell Price, DS, ICC, 800 Briar Creek Rd., Rm. CC-516, Charlotte, NC 28205.*

MC 145363 (Sub-1TA), filed April 18, 1979. Applicant: BREWTON EXPRESS,

INC., P.O. Box 508, Winnfield, LA 71483. Representative: Brian E. Brewton (same address as applicant). Applicant is applying for authority to operate as a contract carrier over irregular routes transporting *lumber, plywood and forest products* from the plantsites of Crown Zellerbach Corp., at or near Joyce, Ponchatoula, Pine Grove, Bogalusa, Powhatan, LA; and Lumberton, MS to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, MI, MN, MO, MS, NE, NJ, OH, PA, SC, TN, TX, WV, and WI, for 180 days. Supporting Shipper(s): Crown Zellerbach Corporation, P.O. Box 1060, Bogalusa, LA 70427. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 145423 (Sub-6TA), filed April 20, 1979. Applicant: C. VAN BOXELL TRANSPORTATION COMPANY, 763 South Oakwood, Detroit, MI 48217. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Roofing felt paper* from the Owens Corning Fiberglass Plant at Brookville, IN, to the Owens-Corning Fiberglass plant at Detroit, MI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens-Corning Fiberglass Corporation Fiberglass Tower, OH 43659. Send protest to: C. R. Flemming, D/S I.C.C. 225 Federal Building, Lansing, MI 48933.

MC 145593 (Sub-4TA), filed May 2, 1979. Applicant: HAROLD SHULL TRUCKING, INCORPORATED, P.O. Box 1533, Hickory, NC 28601. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave., NW., Washington, DC 20036. *Furniture and furniture parts* from points in Catawba, Iredell, Caldwell, Wilkes, Burke, Rutherford, Cleveland, Alexander and Lincoln Counties, NC to points in MI and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 8 shippers. Their statements may be examined at the office listed below or Headquarters. Send protests to: D/S Terrell Price, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 145703 (Sub-2TA), filed April 27, 1979. Applicant: FRL TRANSPORTATION, INC., 96 Doty St., Fond du lac, WI 54935. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Contract carrier; irregular routes; (1) Cured Hides and materials, equipment, and supplies used or useful in the manufacture, sale or distribution of cured hides and finished leather from Nashville, TN to Fond du Lac, WI; (2) Finished leather from Fond du Lac, WI to Nashville, TN, restricted*

to service performed under a continuing contract(s) with Fred Rueping Leather Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fred Rueping Leather Co., 96 Doty St., Fond du Lac, WI 54935. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 145772 (Sub-5TA), filed April 25, 1979. Applicant: LANG CARTAGE CORP., 1308 S. West Ave., Waukesha, WI 53187. Representative: John Bruemmer, 121 W. Doty St., Madison, WI 53703. *Such merchandise as is dealt in by retail mail order houses from facilities of Aldens, Inc. at Chicago, IL to points in WI, MN & UP of MI, for 180 days.* An underlying ETA seeks 90 days authority. Supporting shipper(s): Aldens, Inc., 5000 W. Roosevelt Rd., Chicago, IL 60607. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., R. 619, Milwaukee, WI 53202.

MC 146293 (Sub-15TA), filed March 19, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial Park Circle NE., Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *Household products, chemicals, paint, and related articles; materials, equipment, and supplies used in the manufacturing, sales and distribution of the above products from Atlanta, GA to CA and WA, for 180 days.* An underlying ETA seeks 90 days authority. Supporting shipper(s): Zep-Manufacturing Co., Division of National Service Industries 1310 Seaboard Industrial Blvd., Atlanta, GA. Send protests to: Sara K. Davis TA, ICC, 1252 W. Peachtree St. NW., Room 300, Atlanta, GA 30309.

MC 146293 (Sub-16TA), filed April 16, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial Park Circle, NE, Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. (a) *General commodities, (except commodities in bulk, class A and B explosives, household goods as defined by the Commission). Restricted to commodities moving on freight forwarder Bill of Lading.* (b) I from CA to points in IL, IN, MI, KY, OH, PA, WV, VA, MD, NY, CT, MA II From all points in IL, MI, KY, OH, PA, WV, VA, MD, NY, CT, MA, IN to CA III From NC, SC, GA, TN to CA, AZ, UT, NV, for 180 days. Supporting shipper(s): Western Freight Asst., 3336 San Fernando Rd., Los Angeles, CA 90065. Westransco Freight Inc., P.O. Box 54810, Los Angeles, CA 90054. Send protests to: Sara K. Davis TA, ICC, 1252 W.

Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 146303 (Sub-4TA), filed April 30, 1979. Applicant: COLO-TEX INDUSTRIES, INCORPORATED, 1325 West Quincy Avenue, Englewood, CO 80110. Representative: Kenneth R. Vancil, President (Same address as above). *Cocoa powder, chocolate powder, chocolate chips, and peanut butter chips* except that which is transported in bulk or tank vehicles, from WI, NJ, and PA to Denver, CO, for 180 days. Underlying ETA seeks authority for 90 days. Supporting shipper(s): Keebler Company, 5000 Osage Street, Denver, CO 80221. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 146522 (Sub-2TA), filed May 3, 1979. Applicant: ADRIAN CARRIERS, INC., P.O. Box 3532, Davenport, IA 52808. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract authority. *Malt beverages from the facilities of the Olympia Brewing Co. at St. Paul, MN to Davenport, IA, under continuing contract(s) with Valley Beverage Company, Inc. for 180 days.* An underlying ETA seeks 90 days authority. Supporting shipper(s): Valley Beverage Company, Inc., 1735 W. 3rd St., Davenport, IA 52802. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-18406 Filed 6-12-79; 8:45 am]
BILLING CODE 7035-01-M

[Notice No. 91]

Motor Carrier Temporary Authority Applications

June 5, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is

predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 475 (Sub-3TA), filed May 16, 1979. Applicant: WYMORE TRANSFER CO., P.O. Box 448, Oregon City, OR 97045. Representative: David C. White, 2400 S.W. Fourth Avenue, Portland, OR 97201. *Paper, paper articles, and plastic film from Portland, OR, to points in WA in and East of Okanogan, Chelan, Kittitas, Yakima, and Kliclat Counties, and points in ID in and South of Adams, Valley, and Lemhi Counties for 180 days.* An underlying ETA seeks 90 days authority. Supporting shipper(s): CROWN ZELLERBACH CORPORATION, 3400 N. Marine Dr., Pld 97217. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill St., Portland, OR 97204.

MC 20824 (Sub-41TA), filed March 21, 1979. Applicant: COMMERCIAL MOTOR FREIGHT, INC. OF INDIANA, 2141 South High School Road, Indianapolis, IN 46241. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *Common carrier: regular route: General commodities (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving Borden, French Lick, Jasper, Pekin, Salem, Washington and West Baden Springs, IN as off-route points in connection with carrier's authorized regular route operations, for 180 days.* There are 28 supporting shippers. Send

protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

Note.—Applicant request authority to interline at all points throughout its system and to tack this authority it presently holds in NO. MC-20824.

MC 29745 (Sub-7TA), filed March 22, 1979. Applicant: BODGE LINES, INC., 501 South West Street, P.O. Box 546, Indianapolis IN 46206. Representative: Phillip V. Price, 115 N. Pennsylvania St., Rm 1444, Indianapolis IN 46204. *Common carrier: regular route: General commodities, except articles of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, serving the facilities of Cerro Copper Tube Co., at or near New Ross, IN as an off-route point in connection with carrier's regular route authority, for 180 days. Supporting shipper: Cerro Copper Tube Company, State Road 136, New Ross, IN. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.*

Note.—Applicant requests authority to interline at Indianapolis, IN and St. Louis, MO and to tack this authority with authority it presently holds in No. MC-29745.

MC 52704, filed May 8, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Glass containers, from Henryetta, OH to Martinsville, VA and Eden, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616-2121 Building, Birmingham, AL 35203.*

MC 52704 (Sub-224TA), filed May 14, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Rubber, rubber products and such commodities as are manufactured, processed or dealt in by manufacturers of rubber and rubber products, and equipment, materials and supplies used in the manufacture and distribution of rubber and rubber products (except commodities in bulk, in tank vehicles), between the facilities of The Goodyear*

Tire & Rubber Company at or near Gadsden, AL, on the one hand, and on the other, points in AL, AR, DE, FL, GA, IA, IL, IN, KY, KS, LA, MD, MI, MN, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): The Goodyear Tire & Rubber Company, 1144 E. Market Street, Akron, OH 44316. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616-2121 Building, Birmingham, AL 35203.

MC 59655 (Sub-24TA), filed May 17, 1979. Applicant: SHEEHAN CARRIERS, INC., 62 Lime Kiln Road, Suffern, NY 10901. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Malt beverages and related advertising materials, and materials, equipment and supplies used in the manufacture and sale of malt beverages, between Rochester, NY, on the one hand, and, on the other, Torrington CT, Danvers and Westfield, MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): 1. J & M Sales Company, Old Route 8, East Litchfield, CT. 2. Commercial Distributing Co., Inc., South Broad St., Westfield, MA 01085. 3. Merrimack Valley Distributing Co., 50 Prince St., Danvers, MA 01923. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.*

MC 106674 (Sub-388TA), filed March 30, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Hwy 24 West, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Salt, from the facilities of Morton Salt, at or near Manistee, MI to points in IL and IN, for 180 days. Supporting Shipper: Morton Salt Division, Morton-Norwich Products, Inc., 110 North Wacker Drive, Chicago, IL 60606. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.*

MC 113434 (Sub-135TA), filed May 3, 1979. Applicant: GRA-BELL TRUCK LINE, INC., A 5253 144th Avenue, Holland, MI 49423. Representative: Roger Van Wyk, A 5253 144th Avenue, Holland, MI 49423. *Canned and preserved foodstuffs from the facilities of Heinz USA at or near Iowa City and Muscatine, IA and Holland, MI to points in the State of IL. Restricted to traffic originating at the named origins and destined to the named destinations. For 180 days. An underlying ETA seeks no days authority. Supporting shipper(s): Heinz USA, P.O. Box 57, Pittsburgh, PA*

15230. Send protests to: C. R. Flemming, D/S, ICC, 225 Federal Building, Lansing, MI 48933. An underlying ETA seeks 90 days authority.

MC 113855 (Sub-485TA), filed May 9, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road, Southeast, Rochester, MN 55901. Representative: Thomas J. Van Osdel, 502 First National Bank Building, Fargo, ND 58126. *Such commodities as are dealt in or used by agricultural, industrial and construction equipment dealers, except in bulk, from the facilities of Massey Ferguson, Inc. located at or near Detroit, MI to points in AZ, CA, CO, ID, MT, NV, OR, UT, WA and WY, restricted to traffic originating at the facilities of Massey Ferguson, Inc. located at or near Detroit, MI and destined to points in the named states, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Massey Ferguson Inc., 1901 Bell Avenue, Des Moines, IA 50315. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.*

MC 113974 (Sub-59TA), filed May 15, 1979. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., 211 Washington Ave., Dravosburg, PA 15034. Representative: James D. Porterfield (same as applicant). *Iron and steel articles, (1) from Philadelphia, PA to Marietta, GA; and (2) from Marietta, GA to points in AR, FL, IL, IN, IA, MD, MI, NY, NC, OH, PA, SC, TN and VA, for 180 days. Supporting shipper(s): Pacesetter Steel Service, Inc., P.O. Box 6865, Marietta, GA 30065. Send protests to: J. A. Niggemyer, D/S, 416 Old P.O. Bldg., Wheeling, WV 26003.*

MC 114725 (Sub-102TA), filed May 10, 1979. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th St., Omaha, NE 68110. Representative: Donald F. Swerczek (same address as applicant). *Liquid fertilizer, in bulk, in tank vehicles, from Perry, NE to points in KS and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Chemical Corporation, P.O. Box 2120, Houston, TX 77001. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.*

MC 116254 (Sub-268TA), filed May 17, 1979. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35630. Representative: Mr. M. D. Miller (same address as applicant). *Ferro-Phosphorus, in dump vehicles, from the plantsite and storage facilities of Monsanto Company, Columbia, TN, to Marshall, TX, for 180 days. An underlying ETA seeks 90 days authority.*

Supporting shipper(s): Monsanto Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166. Send protests to: Mabel E. Holston, Transportation Asst., ICC., Room 1616, 2121 Building, Birmingham, AL 35203.

MC 116915 (Sub-80TA), filed March 26, 1979. Applicant: ECK MILLER TRANSPORTATION CORPORATION, Route #1, P.O. Box 248, Rockport, IN 47635. Representative: Fred Bradley, P.O. Box 773, Frankfort, KY 40602. *Iron and steel articles*, from the facilities of Bethlehem Steel Corp. at Burns Harbor, IN, to points in AL, GA and MS, for 180 days. Supporting shipper: Bethlehem Steel Corporation, P.O. Box 248, Chesterton, IN 46304. Send protests to: Beverly J. Williams, Transportation Assistant, ICC., 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 126305 (Sub-120TA), filed May 7, 1979. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., RFD 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladston, NJ 07934. *Laminated beams*, from the facilities of Boozer Laminated Beam Company, Anniston, AL to points in GA, FL, SC, MS, LA, and AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Boozer Laminated Beam Co., P.O. Box 657, Anniston, AL 36201. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 126305 (Sub-12TA), filed May 14, 1979. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., RFD 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Stairwork, jams, molding, lumber*. From the facilities of Potlatch Corp., at Warren and Prescott, AR, to points in AL, GA, IA, MN, MO, MS, MD, NJ, OH, PA, TN, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Potlatch Corporation, P.O. Box 390, Warren, AR 71671. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 127705 (Sub-83TA), filed March 29, 1979. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, Suite 945—9000 Keystone Crossing, Indianapolis, IN 46240. *Glass containers and fibreboard boxes*, from Gas City, IN, to points in IL, OH and Bardstown, Clermont, Covington, Frankfort, Louisville and Taylor, KY, for 180 days. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH

43666. Send protests to: Beverly J. Williams, Transportation Assistant, ICC 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 127705 (Sub-84TA), filed March 29, 1979. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, Suite 945—9000 Keystone Crossing, Indianapolis, IN 46240. *Mineral wool insulation and materials and supplies used in the manufacture and distribution of mineral wool insulation* (except commodities in bulk), between the facilities of Guardian Industries, Insulation Division at Huntington, IN on the one hand, and on the other, points in IL, MI, OH, NY, PA, KY, TN, MN, WI, MO, and IA, for 180 days. Supporting shipper(s): Guardian Industries Insulation Division, P.O. Box 406, Huntington, IN 46750. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 134775 (Sub-10TA), filed May 2, 1979. Applicant: GUNTER BROTHERS, INC., 19060 Frager Road, Kent, WA 98031. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98055. *Contract carrier: irregular routes: Carpeting, floor coverings, and materials and supplies used in the installation thereof*, from points in CA to points in ID, MT, OR, and WA, for the account of William Volker & Co. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): William Volker & Co., 945 California Drive, Burlingame, CA 94010. Send protests to: Shirley M. Holmes, T/A I.C.C., 858 Federal Bldg., Seattle, WA 98174.

MC 135444 (Sub-5TA), filed May 14, 1979. Applicant: SOUTHERN OHIO TRUCK LINES, INC., 3585 Hamilton-Trenton Rd., Hamilton, OH 45011. Representative: Earl N. Merwin, 85 E. Gay St., Columbus, OH 43215. *Zinc, zinc oxide, zinc dust, zinc dross, zinc residue, zinc skimmings, metallic cadmium, and lead sheets* (except commodities in bulk), between the facilities of St. Joe Zinc Company, located at Josephstown, Potter Township, Beaver County, PA, and points in IN, KY, NY, and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): St. Joe Zinc Company, Two Oliver Plaza, Pittsburgh, PA 15222. Send protests to: DS/ICC, Room 620, 101 N. 7th St., Philadelphia, PA 19106.

MC 135895 (Sub-42TA), filed May 23, 1979. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Sta., Jackson,

MS 39204. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701. *Malt beverages, advertising and display materials and containers* (except commodities in bulk) between Houston, TX and Covington and Houma, LA, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Buquet Distributing Co., Inc., 1200 St. Charles St., Houma, LA 70360; Champagne Beverage Co., Inc., P.O. Box 818, Covington, LA 70433. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 135904 (Sub-3TA), filed April 20, 1979. Applicant: ALLTRANS EXPRESS LTD., 4878 Manor St., Burnaby, B.C., Canada U5G 1B3. Representative: George H. Hart, 1100 IBM Bldg., Seattle, WA 98101. *General commodities (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size or weight require the use of special equipment)*, between Portland, OR and the Port of Entry on the U.S.-Canada Boundary line at Blaine, WA, serving Vancouver, WA, as an intermediate point, and serving junction Interstate Hwy. 5 and Washington Hwy. 539 (formerly Alternate U.S. Hwy. 99) at Bellingham, WA, for purposes of joinder only: From Portland over Interstate Hwy. 5 to the Port of Entry on the U.S.-Canada Boundary line at Blaine, and return over the same route. Between junction Interstate Hwy. 5 and Washington Hwy. 539 (formerly Alternate U.S. Hwy. 99) at Bellingham, WA, and the Port of Entry on the U.S.-Canada Boundary line at Sumas, WA, serving no intermediate points and serving junction Interstate Hwy. 5 and Washington Hwy. 539 (formerly Alternate U.S. Hwy. 99) at Bellingham, WA, for purposes of joinder only: From junction Interstate Hwy. 5 and Washington Hwy. 539 (formerly U.S. Hwy. 99) at Bellingham, over Washington Hwy. 539 (formerly portion U.S. Hwy. 99) to junction Washington Hwy. 544, thence over Washington Hwy. 544 to junction Washington Hwy. 9, and thence over Washington Highway 9 to Sumas, and return over the same route, for 180 days. Applicant intends to tack this authority with MC 135904 Sub 2, at Tacoma, WA and Seattle, WA, for service beyond Canada. Applicant intends to interline traffic at Portland, OR, Tacoma and Seattle, WA. Supporting shipper(s): There are 27 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Shirley

M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 136315 (Sub-74TA), filed May 18, 1979. Applicant: OLEN BURRAGE TRUCKING, INC., Rt. 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. (1) *Lumber, particleboard, composition board, paneling, poles, piling, pallets, timbers, crossties and wallboard* and (2) *materials, equipment and supplies used in the manufacture, production or distribution of the commodities named in (1) above*, except commodities in bulk, between points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, MS, NC, NE, NY, OH, OK, PA, SC, TN, TX, VA, WV, and WI, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): There are 30 statements in support attached to this application which may be examined at the I.C.C. in Washington, D.C. or copies of which may be examined in the field office named below. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 138875 (Sub-181TA), filed April 4, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as above). *Frozen foods*, except in bulk, between points in ID and Malheur County, OR, on the one hand, and, on the other, points in CA, for 180 days, in common carriage. An underlying ETA seeks 90 day authority. Supporting shipper(s): Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83706. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 138875 (Sub-182TA), filed April 9, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as above). *Such products as are dealt in by tile, floor, ceiling, wall and counter covering distributors, except commodities in bulk*, from the facilities of GAF Corporation located at or near Vails Gate, NY and Fullerton, PA to points in CA, ID, NV, OR, UT and WA, for 180 days in common carriage. An underlying ETA seeks 90 days authority. Supporting shipper(s): GAF Corporation, 1361 Alps Road, Wayne, NJ 07470. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 138875 (Sub-183TA), filed April 9, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as above). *Doors and accessories, except*

commodities in bulk, from the facilities of Republic Builders Products Corporation located at or near McKenzie, TN to Nampa & Twin Falls, ID and Ogden, UT, for 180 days in common carriage. (Restricted to traffic originating at and destined to named origins and destinations.) An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Block, Inc., 224 1st St. So., Nampa, ID 83651. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 138875 (Sub-184TA), filed April 10, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as above). *Dehydrated potatoes, except commodities in bulk*, from Rupert, ID to the facilities of Ore-Ida Foods, Inc. at Plover, WI, for 180 days in common carriage. Restricted to traffic originating at and destined to named origins and destinations. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 138875 (Sub-185TA), filed April 12, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as above). *Lumber, lumber mill products, wood products and composition board, except commodities in bulk*, from points in MT to points in Ada and Canyon Counties, ID, in common carriage, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chandler Corporation, 1301 N. Orchard, Boise, ID 83705. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 138875 (Sub-186TA), filed April 24, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as above). *Such products as are dealt in by wholesale and retail drug and discount stores, except drugs and medicines and except commodities in bulk*, between the facilities of Formac-Valu-Rite, a subsidiary of Foremost-McKesson, Inc. at or near Los Angeles, CA, Denver, CO, Smyrna, GA, Bedford Park, IL, Grand Prairie, TX and Portland, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Formac-Valu-Rite, A subsidiary of Foremost-McKesson, Inc., Crocker Plaza, One Post Street, San Francisco, CA 94104. Send protests to: Barney L.

Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 142494 (Sub-2TA), filed April 25, 1979. Applicant: UNITED CARTAGE, INC., 737 S. Stacy Street, Seattle, WA 98134. Representative: Michael D. Duppenhaler, 211 S. Washington St. Seattle, WA 98104. *General commodities (except Classes A and B explosives)*, between points in the Seattle, WA Commercial Zone, restricted to traffic having a prior or subsequent movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eckert Overseas Agency, Inc., 1218 3rd Ave., Seattle, WA 98101; Totem Ocean Trailer Express, Inc., 1100 Olive Way, P.O. Box 24908, Seattle, WA 98124. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 145194 (Sub-4TA), filed May 14, 1979. Applicant: WOOSTER MOTOR WAYS, INC., 1357 Mechanicsburg Rd., Wooster, OH 44691. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Such merchandise, as is manufactured or dealt in by persons whose primary business purpose is the manufacture, processing, or distribution of rubber products, and, in connection therewith, equipment, materials and supplies used in the conduct of such business from Allen County, IN to points in MI and OH*, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The B. F. Goodrich Co., 500 S. Main St., Akron, OH 44318. Send protests to: DS/ICC, Room 620, 101 N. 7th St. Philadelphia, PA 19106.

MC 145734 (Sub-6TA), filed April 26, 1979. Applicant: B D TRUCKING CO. P.O. Box 817, Ripon, CA 95366. Representative: E. J. Hegarty, Attorney, Loughran & Hegarty, 100 Bush St., 21st Floor, San Francisco, CA 94104. *Gypsum products, viz., gypsum board, thermal (solid gypsum board with enclosed electrical heating element); and, gypsum board, viz., gypsum backing board, gypsum form board, gypsum lath, gypsum sheathing and gypsum wall board*. From facilities of National Gypsum Company, Phoenix, AZ to San Diego, Orange, Los Angeles, Riverside, and San Bernardino counties, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Gypsum Company, 1850 West 8th St., Long Beach, CA 90813. Send protests to: A. J. Rodriguez, I.C.C., 211 Main St., Suite 500, San Francisco, CA 94105.

MC 145734 (Sub-7TA), filed May 17, 1979. Applicant: B D TRUCKING CO., P.O. Box 817, Ripon, CA 95366.

Representative: Edward J. Hegarty, J. H. Gulseth, PH: (415) 986-5778, Loughran & Hegarty, 100 Bush Street, 21st Floor, San Francisco, CA 94104. *Lime and lime products* (except in bulk), from the Flintkote Lime Company facilities at or near Dolomite, UT to points in Oregon and points in San Francisco, Santa Clara, San Mateo, Alameda and Sacramento counties, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Flintkote Lime Company, 4700 Ramon Blvd., Monterey Park, CA 91754. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, suite 500, San Francisco, CA 94105.

MC 146974 (Sub-1TA), filed May 16, 1979. Applicant: WILLIAM V. THOMAS, P.O. Box 554, Ojo Caliente, NM 87549. Representative: William V. Thomas (same address as applicant). *Iron and steel articles*, except those described in the Mercer Description, 74 MCC 459, and those requiring special equipment because of size and weight, (1) from CA, OK, and TX, to AZ, CO, and NM, (2) from AZ to NM and CO, (3) from NM to AZ and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rio Grande Steel Co., 7100-2nd Street, NW, Albuquerque, NM 87103; Drainage Structures, Inc., 10300 Central SW, Albuquerque, NM 87105. Send protests to: DS, ICC, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

MC 147004 (Sub-1TA), filed May 14, 1979. Applicant: E.G. MASON, d.b.a., CITY WIDE DELIVERY SERVICE, 4858 Space Center, San Antonio, TX 78210. Representative: Kenneth R. Hoffman, 801 Vaughn Building, Austin, TX 78701. *Plumbing supplies, bathroom vanities and accessories for vanities* between San Antonio, TX on the one hand, and, on the other, Hondo, TX. Restricted to traffic moving in trailers not owned or furnished by carrier and restricted to traffic having a prior or subsequent movement by rail, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Universal-Rundle Corporation, 217 North Mill Street, New Castle, PA 16103. Send protests to: Martha A. Powell, TA, Interstate Commerce Commission, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-18410 Filed 6-12-79; 8:45 am]

BILLING CODE 7035-01-M

Operating Rights Application(s) Directly Related to Finance Proceedings

The following operating rights application(s) are filed in connection with pending finance applications under section 11343 (formerly section 5(2)) of the Interstate Commerce Act, or seeking and/or gateway elimination in connection with transfer applications under Section 10926 (formerly section 212(b)) of the Interstate Commerce Act.

An original and one copy of protests to the granting of the authorities must be filed with the Commission on or before July 13, 1979. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 109397 (Sub-454F) (partial correction), filed April 27, 1979. Previously noticed in the Federal Register issue of May 17, 1979. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Portions of the purchased authority was omitted and should be included as follows: 3. *Commodities*, which because of size or weight require special equipment, and related *machinery parts*, and related *contractor's materials and supplies* when their transportation is incidental to commodities requiring special equipment, and *self-propelled articles* each weighing 15,000 pounds or more, and related *machinery, equipment, tools, parts, and supplies* moving in connection therewith (restricted to self-propelled articles which are transported on trailers), incidental to and used in connection with the construction, repairing, or dismantling of gas, gasoline, and oil pipe lines, between points in CA, on the one hand, and, on the other, points in the United States (except AK and HI). Restriction: Restricted to traffic moving to or from pipe line rights-of-way. 4. *Commodities*, which because of size or weight require special equipment, and related *machinery parts*, and related *contractor's materials and supplies*

when their transportation is incidental to commodities requiring special equipment, and *self-propelled articles* each weighing 15,000 pounds or more, and related *machinery, equipment, tools, parts, and supplies* moving in connection therewith (restricted to self-propelled articles which are transported on trailers), used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, between points in AR, CO, IA, KS, LA, MO, NM, OK, TX, WY, WI, ND, SD, MN, IL, IN, OH, PA, NJ, DE, MD, NC, WV, VA, NY, CT, RI, MA, and DC. 7. *Oilfield equipment and supplies, except commodities moving in tank vehicles, new passenger automobiles, and Classes A and B explosives, between points in MO, on the one hand, and, on the other, ports of entry on the Pacific Coast and those on the United States-Canada Boundary line—restricted to traffic moving to or from AK or foreign commerce.* 10. (a) *Commodities*, the transportation of which because of their size or weight requires the use of special equipment or handling, and *parts of commodities*, the transportation of which because of their size or weight requires the use of special equipment or handling, except commodities moving in tank vehicles, new passenger automobiles, and Classes A and B explosives, and (b) *self-propelled articles*, each weighing 15,000 pounds or more, transported on trailers, and related *machinery, tools, parts, and supplies* moving in connection therewith, between points in IL, IN, WY, NM, IA, MO, AR, KY, and LA, on the one hand, and, on the other, ports of entry on the Pacific Coast and those on the United States-Canada Boundary line—restricted to traffic moving to or from AK or foreign commerce. 11. (a) *Commodities*, the transportation of which because of their size or weight requires the use of special equipment or handling, and *parts of commodities*, the transportation of which because of the size or weight requires the use of special equipment or handling, except commodities moving in tank vehicles, new passenger automobiles, and Classes A and B explosives, and (b) *self-propelled articles* each weighing 15,000 pounds or more, transported on trailers, and related *machinery, tools, parts, and supplies* moving in connection therewith, between points in WI, MN, and ND, on the one hand, and, on the other, ports of entry on the Pacific Coast and those on the United States-Canada Boundary line—restricted to traffic

moving to or from AK or foreign commerce. 15. *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines for the transportation of water and sewerage, including the stringing and picking up of pipe—restricted to traffic originating at or destined to pipeline rights-of-way, and except commodities moving in tank vehicles, new passenger automobiles and Classes A and B explosives, between points in AZ, CT, DE, ID, MA, MD, ME, NH, NC, NJ, NV, RI, SC, VT, and DC, on the one hand, and, on the other, ports of entry on the Pacific Coast and those on the United States-Canada Boundary line—restricted to traffic moving to or from AK or foreign commerce. 16. *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (c) the injection or removal of commodities into or from holes or wells, except commodities moving in tank vehicles, new passenger automobiles, and Classes A and B explosives, between points in WY, NM, NE, IA, MO, AR, LA, KY, NV, and IN, on the one hand, and, on the other, ports of entry on the Pacific Coast and those on the United States-Canada Boundary line—restricted to traffic moving to or from AK or foreign commerce. 21. *Aerospace craft* which because of size or weight require special equipment or handling, and *parts* of aerospace craft which because of size or weight require special equipment or handling, between points in CA, WA, NE, MN, SD, ND, AZ, OR, WY, UT, NM, TX, OK, CO, IA, KS, MO, AR, LA, ID, MT, and NB, on the one hand, and, on the other, points in the United States in and west of MN, IA, MO, AR, and LA. 22. (a) *Antipollution systems*, which because of size or weight special equipment or handling; and (b) *parts* of commodities in (a) above, from points in NJ, to points in LA, CA, WA, OR, ID, and MT. 23. *Lumber and wood products*, which because of size or weight require special equipment or handling, and *parts* of lumber and wood products, from points in ID and MT, to points in CO, IA, LA, NM, OK, TX, IL, IN, MI, OH, KY, PA, MA, RI, CT, NY, NJ, DE, MD, WV, VA, NC, and DC.

24. (a) *Aircraft ground support equipment* (except automobiles, trucks and buses as defined in Descriptions in Motor Carrier Certificates, 61 M.G.C. 209 and 768), which because of size or weight requires the use of special equipment, and (b) *self-propelled aircraft ground support equipment* weighing 15,000 pounds or more, transported on trailers, between points in WA, OR, UT, NV, AZ, and CA, on the one hand, and, on the other, points in the United States (except AK and HI). 29. (1) *Turbines, steam condensers, feed water heaters, weldments and heat exchangers*, (2) *parts* of the commodities in (1) above, and (3) *iron and steel castings and forgings*, restricted in (1) above to the transportation of commodities which because of size or weight require the use of special equipment and in (2) above to the transportation of parts which because of size or weight do not require the use of special equipment in mixed loads with commodities in (1) between points in ND, SD, NM, NY, PA, MD, DC, VA, WV and NC, on the one hand, and, on the other, points in and west of MN, IA, MO, AR, and LA. 30. *Iron and steel articles*, from points in CA, to points in AL, AK, AZ, CA, FL, GA, ID, OR, SC, TN, UT, CO, AR, IL, IA, KS, KY, LA, MI, NM, NC, OH, OK, PA, TX, VA, WA, WV, WY, WI, and MN. 31. *Pre-finished vinyl or paper-covered paneling, gypsum board, hardboard, composition board and molding*, which because of size or weight require special equipment, from the plant site of Sioux Veneer Panel Co., at or near Boise, ID, to points in OR and WA. 32. *Steel roofing*, from Phoenix, AZ, and *reinforcing bars*, from Helena, AZ, to points in CA. 33. *Such contractors' equipment, heavy and bulky articles, machinery and machinery parts, and articles requiring specialized handling or rigging*, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, between points in MT, ND, and SD, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, NC, PA, RI, VA, WV, and DC. 38. *Turbines, steam condensers, feed water heaters, weldments, heat exchangers, and iron and steel castings and forgings*, which because of size or weight require special equipment or handling, between VT, NH, ME, NY, PA, and MD, on the one hand, and, on the other, points in and west of IN, KY, AR, and LA. 39. *Zinc and zinc products*, which because of size or weight require the use of special equipment, from points in VA,

NC, CT, DE, MD, MA, NJ, NY, PA, RI, WV, and DC, to points in and west of TX, OK, KS, NE, SD, and ND. 40. *Refined copper*, which because of size or weight requires the use of special equipment, from points in VA, NC, CT, DE, MD, MA, NJ, NY, PA, RI, WV, and DC, to points in and west of TX, OK, KS, NE, SD, and ND. 41. *Aluminum and aluminum articles*, which because of size or weight require the use of special equipment, from points in VA, NC, CT, DE, MD, MA, NJ, NY, PA, RI, WV, and DC, to points in and west of TX, OK, KS, NE, SD, and ND. 42. (1) *Tractors* with or without *attachments* (except tractors used for pulling highway trailers), *lift trucks, excavators, motor graders, scrapers, engines, generators, generators and engines combined, road rollers, pipe layers, dump trucks*, with or without bodies designed for off-highway use; (2) *parts, attachments and accessories* for the commodities described in (1) above; which because of size or weight require the use of special equipment, from the plant sites and facilities of Caterpillar Tractor Co., located in Scott County, IA, to points in VA, NC, CT, DE, MD, MA, NJ, NY, PA, RI, WV, and DC. 46. *Radioactive materials and radioactive material handling containers*, which because of size or weight require the use of special equipment or handling, between points in WY, CO, NM, KS, OK, TX, LA, AR, MO, IA, WA, OR, ID, MT, UT, KY, IN, and WI, on the one hand, and, on the other, points in the United States (except AK and HI). 47. *Lumber, particleboard and plywood*, which because of size or weight require the use of special equipment, from points in MA, RI, CT, NJ, NY, PA, MD, DE, DC, VA, NC, WV, OH, IN, MI, and IL, to points in and west of TX, OK, KS, NE, SD, and ND. 48. *Pollution control systems, parts, and attachments* for pollution control systems, which require special handling or rigging, and *equipment, materials, and supplies* used in the installation, operation, and maintenance of pollution control systems, from points in MD, NC, VA, NY, PA, CT, MA, and RI, to point in the United States (except AK, HI, IL, MI, IN, OH, WV, NC, VA, DE, MD, DC, PA, NY, NJ, CT, RI, MA, VT, NH, and ME). 49. *Pollution control systems, parts and attachments* for pollution control systems, and *equipment, materials, and supplies* used in the installation, operation, and maintenance of pollution control systems, from points in NJ, to points in the United States (except AK, HI, IL, MI, IN, OH, WV, NC, VA, DE, MD, DC, PA, NY, NJ, CT, RI, MA, VT, NH, and ME). 50. *Aluminum products and fabricated or structural steel*

requiring specialized handling or rigging, from points in MA, CT, RI, NJ, NY, PA, WV, VA, NC, DC, OH, IN, MI, and IL, to points in the United States (except AK, HI, IL, IN, MI, OH, WV, NC, VA, DE, MD, DC, PA, NY, NJ, CT, RI, MA, VT, NH, and ME). 55. *Metal buildings and metal wall sections* requiring special handling (a) from points in MA, CT, RI, NY, NJ, PA, MD, DE, DC, VA, WV, NC, and OH, to points in the United States (except AK and HI), and (b) from points in CA, OR, WA, MT, ID, UT, NM, CO, WY, KS, OK, TX, IA, ND, SD, MN, WI, IL, IN, MO, AR, LA; and KY, to points in MA, RI, CT, NY, NJ, MD, DE, DC, VA, NC, WV, PA, and OH. 56. (a) *Pre-cut buildings* which because of size or weight require special equipment; and (b) *parts, attachments, materials, and supplies* for pre-cut buildings, from points LA, TX, OK, AR, NM, MO, KS, CO, UT, WY, IL, IN, WI, KY, OH, ND, SD, MN, WA, ID, MT, OR, CA, NC, VA, WV, DC, MD, DE, PA, NJ, CT, MA, RI, NY, and MI, to points in the United States (except AK and HI). 57. *Iron or steel articles* which because of size or weight require special equipment, from points in MA, RI, CT, NY, NJ, PA, MD, DE, DC, WV, VA, and NC, to points in and west of LA, AR, MO, IA, and MN. 58. *Zinc and zinc products*, from points in Montgomery County, TN, to points in the United States in and west of ND, SD, NE, KS, OK, and TX. 59. *Commodities*, the transportation of which because of size or weight requires the use of special equipment, and related *machinery, parts, and related contractors' materials and supplies* when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight require the use of special equipment; *self-propelled articles*, each weighing 15,000 pounds or more, and related *machinery, tools, parts, and supplies* moving in connection therewith—restricted to commodities which are transported on trailers; 62. (1) *Turbines, steam condensers, feed water heaters, weldments and heat exchangers*, (2) *parts of the commodities in (1) above*, and (3) *iron and steel castings and forgings*, restricted in (1) above to the transportation of commodities which because of size or weight require the use of special equipment and in (2) above to the transportation of parts which because of size or weight do not require the use of special equipment in mixed loads with commodities in (1) above, between points in ID and MT, on the other hand, and, on the other, points in the United States (except AK and HI). 63. *Electric controllers and instruments* which because of size or weight require

special equipment, from points in CT, MA, NJ, NY, PA, DE, MD, VA, and NC, to points in ID and MT. 64. *Asphalt mixing systems* which because of size or weight require special equipment, between King County, WA, on the one hand, and, on the other, points in ID and MT. 65. *Electronic equipment, machinery, and systems* requiring specialized handling or rigging, between VT, on the one hand, and on the other, points in ID and MT. 66. *Source, special nuclear, and by-product materials, radioactive materials*, which because of size or weight require special equipment or handling, and *related reactor experiment equipment, component parts, and associated materials*, between points in ID, CA, FL, and NV, on the one hand, and, on the other, points in the United States (except AK and HI).

Note.—This matter is directly related to MC-F-13956F.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-18407 Filed 6-12-79; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 68]

Permanent Authority Applications; Decision-Notice

Decided: May 22, 1979

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all

or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may be modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory

action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act.].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

H. G. Homme, Jr.,
Secretary.

MC 16903 (Sub-60F), filed December 6, 1978, and previously published in the Federal Register on February 8, 1979, as MC 16903 (Sub-10F). Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *roof insulation*, from the facilities of The Celotex Corporation, at Elizabethtown, KY, to points in MN, WI, IA, IL, MO, AR, LA, MS, AL, GA, FL, SC, NC, TN, KY, VA, WV, IN, MI, OH, PA, DE, MD, NJ, NY, and DC. (Hearing site: Miami, FL, or Washington, DC.)

MC 106373 (Sub-39F), filed February 26, 1979. Applicant: THE SERVICE TRANSPORT COMPANY, A CORPORATION, 114½ East Main Street, Ravenna, OH 44310. Representative: William P. Jackson, Jr.,

3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, (1) from the facilities of Gibraltar Steel Corporation, Seneca Steel Corporation, and Beals, McCarthy and Rogers, Inc., at or near Buffalo, NY, and (2) from the facilities of Lake Eastern Steel Products Company and Steel Bar Service, Inc., at or near Niles, OH, to points in MI, IN, IL, and WI. (Hearing site: Akron, OH, or Washington, DC.)

Note.—The purpose of this republication is to correctly identify the Sub-No. as 60F.

MC 117993 (Sub-12F), filed February 7, 1979. Applicant: FRUITBELT TRUCKING INC., 12 Smith Street, St. Catharines, Ontario, Canada. Representative: Robert D. Gunderman, Suite 710 Statler Bldg., Buffalo, NY 14202. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting (1) *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), and (2) *foodstuffs* (except the commodities in (1) above), in mixed loads with the commodities in (1) above, from points in IL, IA, and WI, to ports of entry on the international boundary line between the United States and Canada, restricted to the transportation of traffic originating at the facilities of Oscar Mayer & Co., Inc. (Hearing site: Buffalo, NY.)

[FR Doc. 79-16406 Filed 6-12-79; 8:45 am]
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[Permanent Authority Decisions Volume No. 69]

Permanent Authority Applications; Decision-Notice

Decided: May 22, 1979.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected*. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to

demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, and has the necessary equipment and facilities for performing that service, and (2) has either performed service within the scope of the application or has solicited business which is controlled by those supporting the application and which would have involved transportation performed within the scope of the application.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication (June 13, 1979).*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority. Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier

applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

H. G. Homme, Jr.,
Secretary.

MC 4963 (Sub-62F), filed March 12, 1979. Applicant: JONES MOTOR CO., INC., Bridge Street & Schuylkill Road,

Spring City, PA 19475. Representative: Roland Rice, Suite 501 Perpetual Bldg., 1111 E Street, NW, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), serving Glens Falls, Hudson Falls, South Glens Falls, and Fort Edward, NY, as off-route points in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Albany, NY.)

MC 13123 (Sub-97F), filed March 12, 1979. Applicant: WILSON FREIGHT COMPANY, A Corporation, 11353 Reed Hartman Hwy., Cincinnati, OH 45241. Representative: Milton H. Bortz (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *refractory products* from the facilities of A. P. Green Refractories Co., at or near Mexico and Fulton, MO, to points in CT, DE, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, VA, WI, WV, and DC; and (2) *aluminum products*, from the facilities of Consolidated Aluminum Corporation, at or near Murphysboro, IL, to points in AR, CT, DE, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MO, NH, NJ, NY, NC, OH, OK, PA, RI, TN, TX, VA, WI, WV, and DC. (Hearing site: Cincinnati, OH, or Washington, DC.)

MC 14252 (Sub-55F), filed March 12, 1979. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH 43227. Representative: William C. Buckham (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Danville, IL, and junction IL Hwy 1 and U.S. Hwy 24, over IL Hwy 1, serving all intermediate points and the off-route point of East Lynn, IL, (2) between Gilman, IL, and junction IL HWY 1 and U.S. Hwy 24, over U.S. Hwy 24, serving all intermediate points, (3) between Gilman and Champaign, IL, over U.S. Hwy 45, serving all intermediate points, (4) between Onarga, IL, and junction IL Hwy 54 and U.S. Hwy 150, over IL Hwy 54, serving all intermediate points, and (5) between junction U.S. Hwy 24 and IL

Hwy 49 and junction IL Hwy 49 and U.S. Hwy 150, over IL Hwy 49, serving all intermediate points. (Hearing site: Columbus, OH.)

MC 16682 (Sub-94F), filed March 12, 1979. Applicant: MURAL TRANSPORT, INC., P.O. Box 1785, North Brunswick, NJ 08902. Representative: W. C. Mitchell, 370 Lexington Avenue, New York, NY 10017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *automotive, bus, and truck chairs, seats, stools, fixtures, and steel beds*, from Dubuque, IA, Waxahatchio, TX, Lancaster, PA, Riverside, CA, Harrison, AR, Sweetwater and Evensville, TN, and Salt Lake City, UT, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 40852 (Sub-5F), filed March 5, 1979. Applicant: SEDALIA-MARSHALL-BOONVILLE STAGE LINE, INCORPORATED, 5805 Fleur Drive, Des Moines, IA 50321. Representative: Steven C. Schoenebaum, 1200 Register and Tribune Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, motor vehicles, commodities in bulk, and those requiring special equipment), between Miami International Airport, at or near Miami, FL, New Orleans International (or Moissant) Airport, at or near New Orleans, LA, and Houston Intercontinental Airport, at or near Houston, TX, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Dallas or Houston, TX.)

MC 47583 (Sub-90F), filed March 12, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz USA, Division of H. J. Heinz Company, at or near Muscatine and Iowa City, IA, to points in TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Kansas City, MO.)

MC 61592 (Sub-435F), filed March 9, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN

47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *metal wire and plastic insulated wire*, from Willimantic, CT, Siloam Springs, AR, and Enka, NC, to points in AZ, AR, CA, NM, NV, OR, TX, and WA. (Hearing site: Washington, DC.)

MC 61592 (Sub-436F), filed March 8, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *filters*, and (2) *materials and supplies* used in the manufacture and distribution of filters (except commodities in bulk), between New Albany, IN, on the one hand, and, on the other, points in AL, CA, FL, IL, LA, MA, MN, MO, NY, OH, RI, VA, and WV. (Hearing site: Louisville, KY.)

MC 64932 (Sub-593F), filed March 9, 1979. Applicant: ROGERS CARTAGE CO., a corporation, 10735 South Cicero Avenue, Oak Lawn, IL 60453. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from the facilities of Dow Chemical U.S.A., Central Division, at Channahon, IL, to those points in the United States on and east of U.S. Hwy. 85. (Hearing site: Chicago, IL.)

MC 71593 (Sub-22F), filed March 12, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1608 East 2nd Street, Scotch Plains, NJ 07076. Representative: Peter Wolff, P.O. Box 116, Scranton, PA 18504. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between New Haven, CT, Chicago, IL, Baltimore, MD, Boston and Springfield, MA, New York, NY, and Philadelphia, PA, on the one hand, and on the other, Minneapolis, MN, and Kansas City, Mo, and (2) between Kansas City and St. Louis, MO, restricted in (1) and (2) above to the transportation of traffic moving on freight forwarder bills of lading as defined in 49 U.S.C. 10102(8) formerly Section 402(a)(5) of the

Interstate Commerce Act. (Hearing site: New York, NY, or Washington, DC.)

MC 82492 (Sub-231F), filed March 2, 1979. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: Dewey R. Marselle (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household products*, from Waxdale, WI, to points in KS, KY, MI, MO, NE, OH, TN, those in PA on and west of U.S. Hwy 219, and those in NY in and west of Broome, Cortland, Onondaga, and Oswego Counties. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 98952 (Sub-63F), filed March 8, 1979. Applicant: GENERAL TRANSFER COMPANY, a corporation, 2880 North Woodford Street, Decatur, IL 62526. Representative: Paul E. Steinhour, 918 East Capitol Avenue, Springfield, IL 62701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs, cleaning compounds, and toilet preparations*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Couzens Warehouse & Distributors, Inc., at or near Chicago, IL, to points in IN, KY, MO, and OH, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Springfield or Chicago, IL.)

MC 98952 (Sub-64F), filed March 12, 1979. Applicant: GENERAL TRANSFER COMPANY, a corporation, 2880 North Woodford Street, Decatur, IL 62526. Representative: Paul E. Steinhour, 918 East Capitol Avenue, Springfield, IL 62701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by food and drug business houses, in vehicles equipped with mechanical refrigeration, (except commodities in bulk), from the facilities of A. E. Staley Manufacturing Company, at or near Chicago, IL, to points in IN, KY, MO, and OH, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Springfield or Chicago, IL.)

MC 106603 (Sub-197F), filed March 12, 1979. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street, NW, P.O. Box 8099, Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville,

MI 48167. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the facilities of Northwestern Steel and Wire Company, at Sterling and Rock Falls, IL, to points in DE, KY, IN, IA, MD, MI, MN, MO, NJ, NY, OH, PA, VA, WV, and WI; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Washington, DC, or Chicago, IL.)

MC 107403 (Sub-1183F), filed March 12, 1979. Applicant: MATTLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *commodities*, in bulk, (1) between those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2) between points named in (1) above, on the one hand, and, on the other, those points in the United States in and west of MT, WY, CO, and NM (except AK and HI), restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of Owens-Illinois, Inc. (Hearing site: Washington, DC.)

MC 108053 (Sub-158F), filed March 12, 1979. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., P.O. Box 129, Fremont, NE 68025. Representative: Arnold L. Burke, 180 N. LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk) from Lyons, NE, to points in CA, restricted to the transportation of traffic originating at the named origin. (Hearing site: Omaha, NE.)

MC 111302 (Sub-152F), filed March 12, 1979. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, TN 37919. Representative: David A. Petersen, P.O. Box 10470 Knoxville, TN 37919. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, in tank vehicles, between points in Talladega County, AL, on the one

hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Mobile, AL.)

MC 113382 (Sub-24F), filed March 12, 1979. Applicant: NELSEN BROS., INC., P.O. Box 613, Nebraska City, NE 68410. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), from the facilities of Thomas J. Lipton, Inc., at or near (a) Santa Cruz, CA, (b) Nebraska City, NE, (c) Independence, MO, (d) Galveston and Dallas, TX, (e) Wilmington, MA, (f) Harrisburg, PA, (g) Suffolk, VA, (h) Flemington, NJ, (i) Albion, NY, and (j) Chicago, IL, to points in the United States (except AK and HI), under continuing contract(s) with Thomas J. Lipton, Inc., of Englewood Cliffs, NJ. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 114273 (Sub-577F), filed March 9, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coal tar and petroleum resins*, (except commodities in bulk, in tank vehicles), from Neville Island, PA, to Oregon, IL. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114632 (Sub-209F), filed March 12, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson, P.O. Box 287, Madison, SD 57042. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foodstuffs*, from Hartford, CT, to Syracuse, NY, and points in GA, IL, KS, MN, MI, MO, OH, PA, TX, and WI. (Hearing site: Boston, MA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 114632 (Sub-210F), filed March 12, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson, P.O. Box 287, Madison, SD 57042. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Wheeling-Pittsburgh Steel Corporation, at (a) Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH, (b) Allenport and Monessen, PA, and (c) Beechbottom, Benwood,

Follansbee, and Wheeling, WV, to points in CO, IL, IA, KS, MN, MO, MT, NE, ND, SD, WI, and WY. (Hearing site: Pittsburgh, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 115162 (Sub-464F), filed March 9, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tractors, tractor parts, and tractor attachments*, from Racine, WI, to points in AL, AR, FL, GA, LA, MS, TN, and TX. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 115162 (Sub-465F), filed March 12, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *construction materials, and materials, equipment, and supplies* used in the manufacture and distribution of construction materials, (except commodities in bulk, in tank vehicles), between points in AL, AR, FL, IL, IN, IA, KY, LA, MI, NJ, NY, NC, OH, PA, SC, TN, TX, and WV, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of The Celotex Corporation. (Hearing site: Tampa, FL, or Washington, DC.)

MC 115162 (Sub-471F), filed March 12, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from points in MI, to Kansas City, MO. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 115523 (Sub-178F), filed March 9, 1979. Applicant: CLARK TANK LINES, INC., P.O. Box 1895, 1450 N. Beck Street, Salt Lake City, UT 84110. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *acids, chemicals, minerals, petroleum coke, salt, salt products, and zirconium sand*, between Little Mountain, UT, and points within 10 miles thereof, on the one hand, and, on the other, points in AZ, CA, CO, ID, KS, MT, NM, NV, OR, TX, UT, WA, and

WY; and (2) *acids, chemicals, minerals, salt, and salt products*, from Little Mountain, UT, and points within 10 miles thereof, to points in NE, ND, OK, and SD. (Hearing site: Salt Lake City, UT.)

MC 116763 (Sub-493F), filed March 8, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by wholesalers, distributors, retailers, and manufacturers of automotive and transportation equipment, parts, and accessories (except (a) commodities in bulk, in tank vehicles, (b) commodities the transportation of which because of size or weight requires the use of special equipment, and (c) automobiles, trucks, and busses, as described in the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, 766), from the facilities of Kinpak, Inc., at or near Atlanta, GA, to points in AL, FL, NC, SC, and TN, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Atlanta, GA.)

MC 116763 (Sub-494F), filed March 8, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk, in tank vehicles), from the facilities of Aunt Jane Foods, Inc., at or near Crosswell, MI, to those points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Detroit MI.)

MC 116763 (Sub-499F), filed March 8, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by wholesalers, distributors, retailers, and manufacturers of automotive and transportation equipment, parts, and accessories (except (a) commodities in bulk, in tank vehicles, (b) commodities

the transportation of which because of size or weight requires the use of special equipment, (c) automobiles, trucks, and buses, as described in the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 766, and (d) paper and paper products), from those points in the United States in and east of MN, IA, MO, OK, AND TX (except WI), to points in WI. (Hearing site: Chicago, IL.)

MC 119493 (Sub-277F), filed March 12, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *flour, corn meal, flaked potatoes, and edible flour and meal preparations*, (except commodities in bulk), from Sherman, TX, to points in AL, AR, AZ, CO, GA, LA, MS, MO, OK, and TN. (Hearing site: Omaha, NE, or Dallas, TX.)

MC 125433 (Sub-216F), filed March 12, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ground limestone*, in bags, from Santa Ana, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Salt Lake City, UT.)

MC 125952 (Sub-38F), filed March 6, 1979. Applicant: INTERSTATE DISTRIBUTOR CO., a corporation, 8311 Durango St., S.W., Tacoma, WA 98499. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *toppings, flavoring, extract, pie filling, syrups, fruit juice concentrates, jams and jellies, in packages*, and (2) *equipment* used for dispensing the commodities in (1) above, from the facilities of Lyons Magnus at Clovis, CA, to points in ID, OR, NV, UT, and WA, under a continuing contract(s) with Lyons Magnus at Clovis, CA. Dual operations may be involved. (Hearing site: Los Angeles, CA.)

MC 127303 (Sub-55F), filed March 12, 1979. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes,

transporting (1) *chemicals, plastic, and plastic products*, (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of Northern Petrochemical Company, at or near (a) Mankato, MN, (b) Newark, OH, (c) Clinton, MA, and (d) Chicago, Morris, and Mapleton, IL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

MC 129032 (Sub-78F), filed March 12, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 So. 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), and (2) *foodstuffs* (except the commodities in (1) above), from the facilities of Geo. A. Hormel & Co., at or near Austin and Owatonna, MN, to points in AR, OK, and TX, restricted to the transportation of traffic originating at the named origins. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 136343 (Sub-162F), filed March 8, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: Herbert R. Nurick, P.O. Box 1168, 100 Pine Street, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *limestone* (except in bulk), from Texas, MD, to points in NJ, NY, OH, and PA. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 138882 (Sub-227F), filed March 12, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *oilfield equipment*, from Shreveport, LA, to points in TN, VA, and WV. (Hearing site: Shreveport, LA, or Birmingham, AL.)

MC 138882 (Sub-228F), filed March 12, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W.

Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, from Passadumkeag, ME, to points in NY and PA. (Hearing site: New York, NY, or Washington, DC.)

MC 138882 (Sub-229F), filed March 12, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pipe, pipe fittings, valves, and hydrants, and materials and supplies* used in the installation of pipe (except commodities in bulk), from the facilities of Clow Corporation, at or near Columbia, MO, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago, IL, or Birmingham, AL.)

MC 139193 (Sub-97F), filed March 8, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street, NW, Suite 300, Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from those points in the United States in and east of ND, SD, NE, CO, and NM, to Gulfport, MS, Charleston, SC, and New Orleans, LA, restricted to the transportation of traffic having a subsequent movement by water, under continuing contract(s) with the Maritrop Trading Corporation, of New York, NY. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 139193 (Sub-98F), filed March 12, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street, NW, Suite 300, Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *beverage bases, syrups, canned and preserved fruits, ice cream toppings, dessert toppings, sauces, flavoring extracts, flavoring compounds, and salad dressings*, (except commodities in bulk, in tank vehicles), and (2) *equipment and supplies* used in the

manufacture and distribution of the commodities in (1) above, from Humboldt, TN, to points in AZ, CO, NV, NM, and WY, under continuing contract(s) with J. Hungerford Smith Co., Inc., of Modesto, CA. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 139193 (Sub-99F), filed March 12, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street, NW, Suite 300, Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: (1) *beverage bases, syrups, canned and preserved fruits, ice cream toppings, dessert toppings, sauces, flavoring extracts, flavoring compounds, and salad dressings*, [except commodities in bulk, in tank vehicles], and (2) *equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, from the facilities of J. Hungerford Smith Co., Inc., at or near Modesto, Redwood City, and Montebello, CA, to Humboldt, TN, under continuing contract(s) with J. Hungerford Smith Co., Inc., of Modesto, CA. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 139193 (Sub-102F), filed March 12, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64133. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Campbell Soup Co., at or near Omaha, NE, to Springdale and Fayetteville, AR, Napoleon, OH, and points in CO, IA, IL, IN, KS, MN, MO, and WI, under continuing contract(s) with Campbell Soup Co., of Omaha, NE. (Hearing site: St. Paul, MN.)

Note.—Dual operations may be involved.

MC 139193 (Sub-103F), filed March 12, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64123. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting *frozen foods*, from the facilities of Campbell Soup Co., at or near Omaha, NE, to Sacramento and Modesto, CA, under continuing contract(s) with Campbell Soup Co., of Omaha, NE. (Hearing site: St. Paul, MN.)

Note.—Dual operations may be involved.

MC 140273 (Sub-15F), filed March 8, 1979. Applicant: BUESING BROS. TRUCKING, INC., 2285 Daniels Street, Long Lake, MN 55356. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting *soda ash, lime, limestone, silica sand, and crushed glass*, from points in IL, IN, IA, MN, MO, NE, ND, OH, SD, WI, and WY, to Minneapolis, MN. (Hearing site: Minneapolis or St. Paul, MN.)

MC 141773 (Sub-10F), filed March 12, 1979. Applicant: THERMO TRANSPORT, INC., 156 East Market Street, Indianapolis, IN 46204. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting *chain saw parts, wood-cutting equipment, and accessories* for chain saw parts and wood-cutting equipment, from Portland, OR, and Los Angeles, CA, to points in the United States [except AK and HI], under continuing contract(s) with Omark Industries, Inc., of Portland, OR. (Hearing site: Portland, OR.)

Note.—Dual operations may be involved.

MC 142672 (Sub-61F), filed March 9, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting *confectionery*, from the facilities of Peter Paul, Inc., at or near York and Hazelton, PA, to points in CA, OR, and WA, restricted to the transportation of traffic originating at the named origins. (Hearing site: Waterbury, CT, or Little Rock, AR.)

Note.—Dual operations may be involved.

MC 142743 (Sub-10F), filed March 12, 1979. Applicant: FAST FREIGHT SYSTEMS, INC., P.O. Box 132C, Tupelo, MS 38801. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the facilities of Northwestern Steel and Wire Company, at Sterling and Rock Falls, IL, to points in AL, AR, FL, GA, LA, MS, and TN; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of iron and steel articles, in the reverse

direction. (Hearing site: Washington, DC, or Atlanta, GA.)

MC 143163 (Sub-13F), filed March 12, 1979. Applicant: RICHARDSON TRUCKING, INC., d.b.a. TRIARC TRANSPORT, 903 37th Avenue Court, Greeley, CO 80631. Representative: Wm. Fred Cantonwine (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs, and materials and supplies* used in the manufacture of margarine and shortening, between the facilities of Miami Margarine Company, at Albert Lea, MN, on the one hand, and on the other, points in AZ, AR, CA, CO, ID, IL, IN, IA, KS, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TN, and TX, under continuing contract(s) with Miami Margarine Company, of Cincinnati, OH. (Hearing site: Denver, CO.)

Note.—Dual operations may be involved.

MC 143373 (Sub-3F), filed March 8, 1979. Applicant: WEILAND TRUCKING CO., INC., Route 2, P.O. Box 288, Wautoma, WI 54982. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, from the facilities of Schmidt Brewing Co., at St. Paul, MN, to points in WI, under continuing contract(s) with G. Heileman Brewing Company, Inc., of LaCrosse, WI. (Hearing site: LaCrosse or Madison, WI.)

MC 145322 (Sub-2F), filed March 12, 1979. Applicant: WATSON TRUCKING, INC., Route 1, Old Dunbar Road, Byron, GA 31008. Representative: J. Michael May, Suite 508, 1447 Peachtree Street, NE, Atlanta, GA 30309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *well sand and well gravel*, in bulk, in dump vehicles, from points in Macon County, AL, to those points in GA on and south of Interstate Hwy 20. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 145612 (Sub-2F), filed March 5, 1979. Applicant: CLAYTON R. NUNN, P.O. Box 234, Tazewell, TN 37879. Representative: Richard L. Hollow, P.O. Box 550, Knoxville, TN 37901. To operate as a *common carrier*, by motor vehicles, in interstate or foreign commerce, over irregular routes, transporting *feed and feed ingredients*, [except commodities in bulk] from Blissfield, MI, to points in GA and FL. (Hearing site: Knoxville, TN.)

MC 146222 (Sub-3F), filed March 9, 1979. Applicant: ILCO TRUCKING, INC., P.O. Box 57087, Birmingham, AL 35209. Representative: Alan E. Serby, 3390 Peachtree Road, NE., 5th floor, Lenox Towers South, Atlanta, GA 30326. To operate as a *contact carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) pipe fittings, hydrants, and valves, (2) *iron and steel products* (except the commodities in (1) above), and (3) *parts and accessories* for the commodities in (1) and (2) above, (except commodities in bulk), from the facilities of American Cast Iron Pipe Company, at or near Birmingham, AL, to those points in the United States in and east of MT, WY, CO, and NM, under continuing contract(s) with American Cast Iron Pipe Company, of Birmingham, AL. (Hearing site: Birmingham, AL, or Atlanta, GA.)

MC 146222 (Sub-4F), filed March 9, 1979. Applicant: ILCO TRUCKING, INC., P.O. Box 57087, Birmingham, AL 35209. Representative: Alan E. Serby, 3390 Peachtree Road, NE., 5th floor, Lenox Towers South, Atlanta, GA 30326. To operate as a *contact carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *materials, equipment, and supplies* used in the smelting and refining of non-ferrous metal (except commodities in bulk, in tank vehicles, and commodities the transportation of which because of size or weight requires the use of special equipment), from those points in the United States on and east of U.S. Hwy 85, to the facilities of Interstate Lead Company, at (a) Leeds, AL, and (b) Savanna, IL; and (2) *non-ferrous metals*, in the reverse direction, of restricted in (1) and (2) above against the transportation of traffic between (a) Savanna, IL, on the one hand, and, on the other, points in IL, and (b) Leeds, AL, on the one hand, and, on the other, points in AL, under continuing contract(s) in (1) and (2) above with Interstate Lead Company, of Leeds, AL. (Hearing site: Birmingham, AL, or Atlanta, GA.)

MC 146623F, filed March 12, 1979. Applicant: STAMEY ENTERPRISES, INC., 7350 102nd Place, South, Boynton Beach, FL 33435. Representative: Richard B. Austin, Suite 214, Palm Coast II Bldg., 5255 N.W. 87th Avenue, Miami, FL 33178. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials* used in the propagation, production, and distribution of horticultural products, between points in FL, on the one hand,

and, on the other, points in the United States (except AK and HI). (Hearing site: Miami, FL.)

MC 146703 (Sub-1F), filed March 8, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Blue Ridge Tower, Suite 820, Kansas City, MO 64123. Representative: Terrence D. Jones, 2033 K Street, NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wine* in containers, from those points in CA in and north of Monterey, Kings, Tulare, and Inyo Counties, CA, to those points in the United States in and east of ND, SD, NE, CO, and NM. (Hearing site: Washington, DC.)

Notes.—(1) Applicant has introduced the issue of rates in support of its application. (2) Dual operations may be involved.

MC 146703 (Sub-2F), filed March 8, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street, NW., Suite 300, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of home products, personal health care products, and beauty aid products, from Easthampton, MA, to points in IA, MO, and TX. (Hearing site: Washington, DC.)

Notes.—(1) Applicant has introduced the issue of rates in support of its application. (2) Dual operations may be involved.

MC 146703 (Sub-3F), filed March 8, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street, NW., Suite 300, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such merchandise* as is dealt in by discount and variety stores, from New York, NY, Philadelphia, PA, and Boston, MA, to Hodgkins, IL, and Junction City, KS. (Hearing site: Washington, DC.)

Notes.—(1) Applicant has introduced the issue of rates in support of its application. (2) Dual operations may be involved.

MC 146703 (Sub-4F), filed March 8, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street, NW., Suite 300, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in

interstate or foreign commerce, over irregular routes, transporting *paper and paper products, and materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products, (except commodities in bulk), from points in DE, ME, MA, NY, NJ, and PA, to points in AR, IL, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI. (Hearing site: Washington, DC.)

Notes.—(1) Applicant has introduced the issue of rates in support of the application. (2) Dual operations may be involved.

MC 146703 (Sub-5F), filed March 8, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street, NW., Suite 300, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from Franklin, VA, to points in AR, IL, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI. (Hearing site: Washington, DC.)

Note.—(1) Applicant has introduced the issue of rates in support of its application. (2) Dual operations may be involved.

MC 146703 (Sub-6F), filed March 8, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street, NW., Suite 300, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *medical supplies*, from points in Town of North Canaan, CT, to Dallas, TX, and Chicago, IL. (Hearing site: Washington, DC.)

Notes.—(1) Applicant has introduced the issue of rates in support of its application. (2) Dual operations may be involved.

MC 146703 (Sub-7F), filed March 8, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street, NW., Suite 300, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum and aluminum products, boxes, plastic and plastic articles, paper and paper articles*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and storage of the commodities in (1) above (except commodities in bulk, in tank vehicles), from Richmond and Grottoes, VA, to points in AR, IA, KS, MN, MO, NE, OK,

TX, and WI. (Hearing site: Washington, DC.)

Notes.—(1) Applicant has introduced the issue of rates in support of its application. (2) Dual operations may be involved.

MC 146703 (Sub-13F), filed March 8, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street, NW, Suite 300, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum plate and aluminum sheet*, in coils, from Clayton, NJ, to points in AR, NE, SD, and TX. (Hearing site: Washington, DC.)

Notes.—(1) Applicant has introduced the issue of rates in support of its application. (2) Dual operations may be involved.

[FR Doc. 79-18409 Filed 6-12-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 115

Wednesday, June 13, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: (9:30 a.m., Thursday, June 7, 1979.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following item has been added and the time of the meeting changed to 11:00 a.m.:

Agenda, Item No., and Subject

Aural—4—Petitions and application by the Trustees of the University of Pennsylvania, Radio Station WXPB (FM) Philadelphia, Pennsylvania (Docket No. 20677).

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: June 7, 1979.

[S-1168-79 Filed 6-11-79; 9:36 am]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 3:15 p.m., Monday, June 11, 1979.

PLACE: Room 856, 1919 M Street, NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Common Carrier—1—A.T. & T. Transmittal No. 13216 revisions to implement flow through of Comsat rate reductions for overseas private line services.

Common Carrier—2—Application of GTE to acquire control of Telenet Corp. (File Nos. W-P-C-2486, et al.)

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

This meeting may be continued the following workday to allow the Commission to complete action.

Issued: June 7, 1979.

[S-1169-79 Filed 6-11-79; 9:38 am]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, June 12, 1979.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Broadcast—1—Broadcast Regulation Tradeoff Study by the Georgia Institute of Technology Engineering Experiment Station.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-6427.

Issued: June 6, 1979.

[S-1170-79 Filed 6-11-79; 9:36 am]

BILLING CODE 6712-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 11:30 a.m. on Thursday, June 7, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation regarding the initiation of termination-of-insurance proceedings against an insured bank, in accordance with section 8(a) of the

Federal Deposit Insurance Act (12 U.S.C. 1818(a)).

In calling the meeting, the Board determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), concurred in by Director William M. Issac (Appointive), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter was eligible for consideration in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: June 7, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1167-79 Filed 6-11-79; 9:36 am]

BILLING CODE 6714-01-M

5

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: June 8, 1979, 44 FR 32325.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 A.M., June 12, 1979.

CHANGE IN THE MEETING: Addition of the following item to the open session:

9. Proposed new service of Puerto Rico Maritime Shipping Authority in the Puerto Rico/Virgin Islands trades.

[S-1174-79 Filed 6-11-79; 2:23 pm]

BILLING CODE 6730-01-M

6

[USITC SE-79-23E]

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 32336 (6/5/79).

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, June 12, 1979.

CHANGES IN THE MEETING: In deliberations held June 7, 1979, the Commission, by unanimous consent, voted to change the schedule with respect to item No. 4, as follows:

4. Petitions and complaints, if necessary:
- a. Inclined-field acceleration tubes (Docket No. 574)—Briefing [in morning session] and vote [at 2 p.m.].
 - b. Surveyors reels (Docket No., 575)—Briefing [in morning session] and vote [at 2 p.m.].
 - c. Coke (Docket No. 554)—Briefing [in morning session] and vote [at 2 p.m.].

Commissioners Alberger, Moore, Bedell, and Stern determined by unanimous consent that Commission business requires the change in the schedule for these agenda items, and affirmed that no earlier announcement of the change to the agenda was possible, and directed the issuance of this notice at the earliest practicable time. Commissioner Parker was not present for the vote.

[S-1176-79 Filed 6-11-79; 3:03 pm]

BILLING CODE 7020-02-M

7

[USITC SE-79-24]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, June 21, 1979.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public.

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary: a. Stoves (Docket No. 576).
5. Methyl alcohol from Canada (Inv. AA1921-202)—Briefing and vote.
6. Any items left over from previous agenda.

Portions Closed to the Public.

7. Status report on Investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth R. Mason, Secretary, 202-523-0161.

[S-1177-79 Filed 6-11-79; 3:03 pm]

BILLING CODE 7020-02-M

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: June 8, 1979.

PLACE: Chairman's Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Closed (additional item).

MATTERS TO BE CONSIDERED:

Friday, June 8; 3 pm

Discussion of congressional testimony to be given Monday, June 11 (approximately 1 hour, closed—exemption 9) additional item.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, 202-634-1410.

Roger M. Tweed,
Office of the Secretary.

June 8, 1979.

[S-1171-79 Filed 6-11-79; 10:06 am]

BILLING CODE 7590-01-M

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: June 14 and 15, 1979.

PLACE: Commissioners' Conference Room, 1717H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Thursday, June 14; 9:30 a.m.

1. Briefing by O.P.M. Staff on S.E.S. performance appraisal system (approximately 2 hours, public meeting).

Thursday, June 14; 2:30 p.m.

1. Discussion of power needs of Pennsylvania-New Jersey-Maryland (approximately 15 minutes, public meeting).
2. Discussion of nuclear power needs of Pennsylvania-New Jersey-Maryland (approximately 45 minutes, public meeting).
3. Affirmation Session (approximately 10 minutes, public meeting):
 - a. Office space for resident inspectors,
 - b. Reduction of radiography overexposures,
 - c. Seabrook seismic shutdown and redesign petition, and
 - d. Ownership of stocks by NRC employees.
4. Discussion of personnel matter (approximately 1½ hours, closed—exemption 6).

Friday, June 15; 9:30 a.m.

1. Briefing by executive branch on nuclear safety matters (approximately 1½ hours, closed—exemption 1).
2. Discussion of personnel matter (approximately 1½ hours, closed—exemption 6).

Friday, June 15; 2 p.m.

1. Discussion of S-3 (approximately 1 hour, public meeting).
2. Discussion of deferral of licenses (approximately 1½ hours, public meeting).

CONTACT PERSON FOR MORE

INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secretary.

June 7, 1979.

[S-1172-79] Filed 6-11-79; 10:06 am]

BILLING CODE 7590-01-M

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m. on June 19, 1979.

PLACE: Room 1101, 1825 K Street, N.W., Washington, D.C.

STATUS: Because of the subject matter, it is likely that his meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE

INFORMATION: Ms. Patricia Bausell (202) 634-4015.

Dated: June 11, 1979.

[S-1175-79 Filed 6-11-79; 2:54 pm]

BILLING CODE 7600-01-M

11

PAROLE COMMISSION.

TIME AND DATE: Monday, June 18, 1979, beginning at 9:30 a.m.

PLACE: Room 818, 320 First Street, N.W., Washington, D.C.

STATUS: Closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED:

(1) Appeals to the Commission of approximately 15 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

(2) Consideration of an application for exemption from a bar imposed by 29 U.S.C. 504 against the employment of applicant by a labor union following a hearing held pursuant to the Administrative Procedures Act and a recommended decision based thereon.

CONTACT PERSON FOR MORE

INFORMATION: A. Ronald Peterson, Analyst (202) 724-3094.

[S-1173-79 Filed 6-11-79; 10:56 am]

BILLING CODE 4401-01-M

Wednesday
June 13, 1979

Part II

**Department of
Health, Education,
and Welfare**

Office of Education

**Health Education Program; Proposed
Regulations Governing Award of Grants
to State and Local Educational Agencies**

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 161i]

Health Education Program

AGENCY: Office of Education, HEW.

ACTION: Proposed Regulations.

SUMMARY: The Commissioner proposes to amend Title 45 of the Code of Federal Regulations by adding a new Part 161i for the program of Health Education enacted by the Education Amendments of 1978. These proposed regulations govern the award of grants to State and local educational agencies for projects that are designed to establish and support programs of health education in elementary and secondary schools.

DATES: All written comments on the proposed regulations must be received on or before August 13, 1979. Public meetings will be held in each of the ten regions on July 11, 1979. The time for these meetings is—

9:00 a.m.—12:00 Noon

1:00 p.m.—5:00 p.m.

7:00 p.m.—9:00 p.m.

ADDRESSES: Written comments should be addressed to Mr. Simon A. McNeely, U.S. Office of Education, Room 2079, FOB No. 6, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

The locations of the public meetings are—

Region I—Boston: Bunker Hill Community College, Room C 202, Rutherford Avenue, Charlestown, Massachusetts

Region II—New York: Norman Thomas High School, 111 East 33rd Street, New York City, New York.

Region III—Philadelphia: University City, Holiday Inn, 38th & Chestnut Streets, Philadelphia, Pennsylvania.

Region IV—Atlanta: Suite 2221, 101 Mariette Tower Bldg., Atlanta, Georgia.

Region V—Chicago: Center for Urban Education, 160 West Wendell Street, (1050 North Wells), Chicago, Illinois.

Region VI—Dallas: North Lake Junior College, 2000 Walnut Hill Lane, Irving, Texas.

Region VII—Kansas City: Penn Valley Community Junior College, 3201 Southwest Trafficway, Room CC 503, Kansas City, Missouri.

Region VIII—Denver: George Washington High School, Lunch Room, 655 South Monaco Street, Denver, Colorado.

Region IX—San Francisco: Room 209, Federal Office Bldg., 50 United Nations Plaza, San Francisco, California.

Region X—Seattle: Room RC 1132, North Seattle Community College, 9600 College Way North, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Simon A. McNeely, (202) 245-8407.

For Information on Regional Hearings Contact:

The appropriate Regional Commissioner for Education Programs listed below:

Region I, Boston, Dr. Thomas J. Burns, (617) 223-7500

Region II, New York, Dr. William D. Green, (212) 264-4370

Region III, Philadelphia, Dr. Albert C. Crambert, (215) 598-1001

Region IV, Atlanta, Dr. William L. Lewis, (404) 221-2063

Region V, Chicago, Ms. Juliette Noone Lester, (312) 353-5215

Region VI, Dallas, Mr. Edward J. Baca, (214) 767-3626

Region VII, Kansas City, Dr. Harold Blackburn, (816) 374-2276

Region VIII, Denver, Dr. John Runkel, (303) 837-3544

Region IX, San Francisco, Dr. Caroline Gillin, (415) 556-4920

Region X, Seattle, Mr. Allen Apodaca, (206) 442-0460

SUPPLEMENTARY INFORMATION:

A. Background

Health education has long been recognized as an important part of elementary and secondary education. Authorities in the field believe there is reason to be concerned about the extent and quality of health education programs in the schools of America. They are aware that much present-day human suffering, premature death, and economic loss are due to illness and injury that might have been prevented, or at least postponed to later years—and that many people could live more productively—if they had been educated to make better health-related choices in their general way of life.

Recognizing these national problems and realizing the significance to the national well-being of a concerted effort to promote health education and preventive measure, the Secretary of HEW, with the cooperation of the Commissioner of Education and the Assistant Secretary for Health, has established a school health initiative in the Department.

The Secretary has also establish interagency task forces on a number of other health-related initiatives including immunization, smoking and health, nutrition, mental health, child—health services (including school health services), teenage pregnancy and parenting, and prevention and intervention strategies in health promotion. All of these initiatives have implications for the improvement of school health education programs and

for the involvement of State education agencies (SEAs) and local educational agencies (LEAs).

The Congress, too, has been aware of the importance of school health programs. In 1970, the Elementary and Secondary Education Act was amended to include sec. 808 of title VIII. This section provided assistance for demonstration programs of health and nutrition services for low-income children. The program was consolidated into Title IV of the Elementary and Secondary Education Act in the Education Amendments of 1974.

In Title III, Part I, of the Education Amendments of 1978, the Congress has initiated a new, direct grant program of school health education. These proposed regulations have been prepared for the administration of that program. The concern and intention of the Congress are reflected in the following statement from the Report of the Senate Committee on Human Resources, to accompany S. 1753, Education Amendments of 1978, Calendar No. 787, Report No. 95-856, May 15, 1978:

The Committee believes additional emphasis must be placed on preventive health education in our public schools.

Changes in personal lifestyle and a better understanding of good health principles are the key to improvements in the health of individuals and prevention of disease and illness.

It is the committee's hope that the programs under (part I) will encourage a greater interest in providing preventive health education in our elementary and secondary schools.

B. Summary of Major Provisions

These proposed regulations describe the nature of projects to encourage the development and improvement of comprehensive health education programs in elementary and secondary schools. The methods and procedures for applying for grants and the selection criteria for grants are also set forth.

The following statements give the reasoning behind some of the major provisions of these proposed regulations for the purpose of facilitating comments.

Eligible applicants. Grants are restricted by the legislation to State educational agencies (SEAs) and local educational agencies (LEAs).

Program-specific definitions. Because some of the essential terms used in these proposed regulations may have different meanings for individuals, the Commissioner has attempted to define them as they are used in this context.

The term "comprehensive school health education," is described in § 161i.1. This term refers to learning experiences that motivate and educate

each student to protect, maintain, and improve his or her own health and the health of other people. These learning experiences are based on the best available scientific information, cover a broad range of subjects and concepts, and are designed to help students gain the understanding, attitudes, and behavioral skills that are essential to the achievement of health goals for the individual, the family, and the community. Health education experiences are selected, organized, and conducted in accordance with the needs, interests, and maturational levels of the individual students, and with the needs of the community at large.

A comprehensive school health education program is part of a "coordinated school health program." This latter term applies to all of the elements of a school-wide concern to protect and promote the health of students, staff, and others. The term is defined in § 161i.4 to include the following essential components:

- (a) Comprehensive school health education;
- (b) School health services;
- (c) Healthful and safe school environment; and
- (d) Guidance toward health careers.

Although all of the components of a school health program are essential and interrelated, funds are only available for the *comprehensive school health education* component. Thus, these regulations attempt to provide guidance for proposals to develop and improve programs of comprehensive school health education that, at the same time, contribute to the enhancement of the school health programs of which they are a part.

The *comprehensiveness* of school health education is emphasized to indicate that the program includes more than single-subject "programs." However, these proposed regulations require all applicants to include in each project plan learning experiences on smoking and health. The proposed regulations also call for the applicant in its comprehensive health education program to give attention to 10 other major national health concerns and to include other subjects, as appropriate.

Health education experts believe that the various subjects can be taught more effectively in a broad and integrated curriculum than in piece-meal fashion. The idea is to treat the various health-related subjects in a conceptual framework that stresses soundly-based decisions, prevention over remediation, and positive health practices in full and effective living.

The word "school" is used in the health education definition to differentiate this program from programs of general health education of the public that are conducted by public health agencies, voluntary health organizations, and others.

The definitions of "coordinated school health program," and "guidance toward health careers" are derived from terminology used in *A Statement of Basic Beliefs—the School Program of Health, Physical Education and Recreation*, published by the Society of State Directors of Health, Physical Education, and Recreation.

The definition of "school health services" is taken, with slight adaptation, from *Combined Glossary—Terms and Definitions from the Handbooks of the State Educational And Report Series*, published by the National Center for Educational Statistics, Department of Health, Education, and Welfare.

The definition of "comprehensive school health education" is derived from *A Statement of Basic Beliefs*, and it incorporates the definition of "health education" given in the *Combined Glossary*.

Project requirements. Sections 161i.20 through 161i.23 describe aspects of an SEA and LEA project that the Commissioner requires. These regulations propose that both the SEA and the LEA develop strategies in the project plan that will contribute to the advancement of the coordinated State or local school health program.

The main difference in the thrust of the requirements for an SEA as compared to an LEA project is that an SEA project must demonstrate effective Statewide leadership and promotion of health education covering several or all of the LEAs of the State. An LEA project must demonstrate effective educational services and materials to motivate and educate students concerning health maintenance and enhancement and the prevention of disease, illness, and injury. An LEA project may involve one or more schools of that district, at the elementary or secondary level, or both levels.

Duration of projects. The proposed regulations provide for the possibility of funding projects of up to five years' duration if that length is necessary to implement and evaluate a comprehensive health education project. However, the Commissioner encourages projects of one to three years' duration.

Initial funding. The proposed regulations do not indicate the size and number of grants or the distribution between SEA and LEA projects. These

will, of course, be contingent upon the appropriation in any fiscal year and the scope of proposals.

However, the Commissioner is considering an initial funding procedure that would divide the appropriated funds equally between the two sets of eligible applicants. SEAs and LEAs. The size of a grant to an LEA would be one-half that of a grant to an SEA because the latter agency would be dealing with broader, State-wide problems and program considerations. About twice as many grants would be made to LEAs as to SEAs. The Commissioner invites interested persons to comment on this procedure.

Considering the nature of projects proposed by these regulations and the likelihood that the initial appropriation for health education will be relatively small, the Commissioner is contemplating awarding grants to SEAs averaging about \$150,000 and grants to LEAs averaging approximately \$75,000. Comments on the practicality of grants of these sizes will also be particularly welcomed.

Limitation on the number of applications. Under these proposed regulations, SEAs and LEAs would be limited to one application in each fiscal year. The purpose is to encourage one well-considered, cohesive project rather than several smaller, separate efforts.

State review of applications. An LEA applicant must provide its SEA the opportunity to review and comment on its application. The Commissioner expects to obtain through this procedure, a better understanding of how the proposed LEA project ties in with other health education activities in the State, particularly those that may be funded under Title IV of the Elementary and Secondary Education Act. SEA comments may also help identify resources that could be helpful to the LEA project and provide other information that would be useful in evaluating LEA proposals and in avoiding duplications.

Open meetings to be held by LEAs. LEAs must provide an opportunity for members of the community to comment on a proposal before submitting an application. This requirement implements Section 1006 of the Elementary and Secondary Act of 1965, as amended.

Selection of projects. Sections 161i.40 through 161i.44 describe the criteria the Commissioner uses to evaluate SEA and LEA applications. These criteria and the relative weightings given them are intended to enable the Commissioner to judge the applications in a uniform and consistent manner. SEA applicants

compete against each other and LEA applicants against other LEA applicants.

Encouragement of SEA and LEA coordination. These proposed regulations would allow the Commissioner the discretion of selecting among SEA and LEA applications those that are cooperatively designed by an SEA and LEA of the same State. The proposed SEA project and the LEA project would have to be jointly planned so that they could be coordinated and would reinforce one another, and both would have to be rated high in their respective categories.

Geographic diversity and variety of settings. The Commissioner proposes to select among relatively equal projects (within 10 points of one another) those that contribute to geographic diversity of projects and projects in a variety of urban, suburban, and rural settings.

Allowable and non-allowable costs. The proposed regulations under §§ 161i.50 and 161i.51 apply to project proposals of both an SEA and an LEA. They allow the use of funds for direct and indirect costs of approved project activities, including funds to be used for released time of teachers to participate in inservice activities if these costs cannot be met in any other feasible way.

The focus of the program for which these regulations are proposed is the health education component rather than the health services component of the school health program. Therefore, these proposed regulations do not allow funds to be used for school health services in the nature of medical, dental, or other services related to the health care of individuals. These services are costly and can be funded through resources other than those under this legislation.

As proposed in these regulations, funds may not be used for the support of physical education programs except for limited activities that directly reinforce health instruction regarding exercise or fitness-related concepts. Nor may funds be used for the support of school sports or competitive athletic programs.

Section 161i.53 Participation of children in private, nonprofit elementary and secondary schools. These proposed regulations highlight the overall requirements of Title III, Special Projects, Part A, Sec. 302(b) of the Education Amendments of 1978. Under this title, no grant may be awarded to a State or local educational agency unless the Commissioner determines that in designing the proposal for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with private school officials; and, to the

maximum extent feasible, and consistent with the number of such children in the area to be served who have the educational needs the proposal is intended to address, those children will be provided an opportunity to participate in the proposed activity on a basis comparable to that provided for public school children.

Relationship to the Education Division's General Administrative Regulations (EDGAR). These proposed regulations do not contain certain types of administrative requirements. Those requirements will be covered in the Education Division's General Administrative Regulations (EDGAR) which will replace the General Provisions for Office of Education Program Regulations and which were published as a notice of proposed rulemaking (NPRM) on May 4, 1979 (44 FR 26308).

Anyone wanting to comment on the EDGAR requirements should do so in response to the EDGAR NPRM, rather than to this NPRM.

The following items applicable to this program are among those covered generally in EDGAR:

How to apply for a grant.

How grants are made.

Certain conditions that must be met by a grantee.

The administrative responsibilities of a grantee.

The procedures the Office of Education uses to obtain compliance.

Invitation to Comment

A public meeting on this Notice of Proposed Rulemaking will be held in each of the ten Federal regions. Since we expect to schedule public meetings for several regulations on the same day, at the same place, we need to get an idea of how many persons are interested in speaking about these regulations. If you are interested in commenting at a public meeting, we encourage you to call the appropriate Regional Commissioner of Education, who will schedule a time for your comments. Persons who do not notify the Regional Commissioner of their intention to comment will be given an opportunity to speak. Those persons making presentations will be called upon according to their prearranged schedule, or if not prearranged, in the order of registration.

We expect that comments on these proposed regulations will be third on the agenda of the public meeting, after the Correction Education regulations.

In addition, interested persons are invited to submit comments and recommendations regarding the proposed regulations. Written comments

and recommendations may be sent to the address given at the beginning of this document. All comments received on or before the 60th day after publication of this document will be considered in the development of the final regulations.

All comments submitted in response to this notice will be available for public inspection, both during and after the comment period, in Room 2079, FOB-6, 400 Maryland Avenue SW., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

D. Citations of Authority

These proposed regulations are issued under the authority of Title III, Part I, of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

As required by Section 431(a) of the General Provisions Act (20 U.S.C. 1232(a)), a citation of statutory authority for each section of the proposed regulations has been placed in parentheses on the line following the text of the section unless all of the sections of a subpart are supported by the same citation. In this case, the citation is given only at the end of the subpart and is meant to relate to each section of that subpart. References to ("Sec. 361 through Sec. 364, 20 U.S.C. 3021-3024") in these citations of authority relate to sections of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978.

(Catalog of Federal Domestic Assistance Number: 13;¹ Health Education Program)

Dated: February 13, 1979.

Ereest L. Boyer,

United States Commissioner of Education.

Approved: May 25, 1979.

Joseph A. Califano, Jr.,

Secretary of Health, Education, and Welfare.

It is proposed that Title 45 of the Code of Federal Regulations be amended by adding a new Part, 161i, to read as follows:

PART 161i—HEALTH EDUCATION

Subpart A—General

Sec.

161i.1 The Health Education Program.

161i.2 Eligible applicants.

161i.3 Regulations that apply to Health Education; general definitions.

161i.4 Program-specific definitions.

¹ Not yet assigned.

Subpart B—Projects the Office of Education Assists under the Health Education Program

- 161i.20 Comprehensive school health education projects.
- 161i.21 Additional project requirements—general.
- 161i.22 Additional project requirements—SEAs.
- 161i.23 Additional project requirements—LEAs.
- 161i.24 Project duration.

Subpart C—How to Apply for A Grant

- 161i.30 Procedures for applying.
- 161i.31 Limitation on the number of applications.
- 161i.32 State review of applications.
- 161i.33 Open meetings to be held by LEAs.

Subpart D—How Grants are Made

- 161i.40 Review, selection, and approval of applications.
- 161i.41 Criteria for selection of projects.
- 161i.42 Criteria that apply to applications from both SEAs and LEAs.
- 161i.43 Additional criteria that apply to applications from SEAs.
- 161i.44 Additional criteria that apply to applications from LEAs.
- 161i.45 Encouragement of SEA and LEA coordination.
- 161i.46 Geographic diversity and variety of settings.

Subpart E—Conditions That Must Be Met By a Grantee

- 161i.50 Allowable costs.
- 161i.51 Non-allowable costs.
- 161i.52 Coordination and non-duplication with other health-education related programs.
- 161i.53 Participation of children in private, nonprofit elementary and secondary schools.

Appendixes

Appendix A—Examples of Allowable SEA Project Activities

Appendix B—Examples of Allowable LEA Project Activities

Authority: Title III, Part I, of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

PART 161i—HEALTH EDUCATION

Subpart A—General

§ 161i.1 Health Education Program.

(a) The Commissioner awards project grants to develop or improve and implement comprehensive school health education programs.

(b) A comprehensive school health education program provides learning experiences—based on the best available scientific information—to promote the understanding, attitudes, and behavioral skills and practices that prepare and motivate elementary and secondary school students to—

- (1) Prevent illness, disease, and injury; and
- (2) Enhance the physical and mental health of themselves, their families, and communities.

(20 U.S.C. 3021-3024)

§ 161i.2 Eligible applicants.

(a) Eligible applicants are State and local educational agencies (SEAs and LEAs).

(b) An SEA competes against other SEA applicants.

(c) An LEA competes against other LEA applicants.

(20 U.S.C. 3021-3024)

§ 161i.3 Regulations that apply to Health Education; general definitions.

(a) *Regulations.* The following regulations apply to the Health Education Program;

(1) The Education Division General Administrative Regulations (EDGAR) in Part 100a (Direct Grant Programs) and part 100c (Definitions).

(2) The regulations in this Part 161i.

(b) *Definitions in EDGAR.* The following terms used in this part are defined in part 100c:

Applicant
Application
Commissioner
Department
Elementary school
Institution of higher education
Local educational agency (LEA)
Nonprofit
Non-public elementary and secondary education
Program
Project
Public agency
Recipient
Secondary school
State
State educational agency (SEA)
(20 U.S.C. 1221c)

§ 161i.4 Program specific definitions.

"Coordinated school health program" means the sum of procedures, services, and learning experiences that protect and promote the physical and mental health of students, school staff, and others. It includes—school health education program;

(1) School health services: medical, dental, mental health, and nursing services provided for students and employees of the educational agency, including examination, referrals, and emergency care;

(2) A healthful and safe school environment; and

(3) Guidance toward health careers: learning experiences and counseling to help students understand professional and paraprofessional health roles and to

explore their aptitudes and interests for a career in one of the health professions or occupations.

(20 U.S.C. 3021-3024)

Subpart B—Projects the Office of Education Assists under the Health Education Program

§ 161i.20 Comprehensive school health education projects.

The Commissioner awards grants for comprehensive school health education projects of SEAs and LEAs that—

(a) Contribute to the advancement of a coordinated school health program.

(b) Identify and demonstrate effective methods, materials, practices, organizational patterns, and administrative procedures that develop or strengthen the comprehensive school health education program; and

(c) Develop or strengthen a comprehensive school health curriculum, that—

(1) Includes learning experiences on smoking and health;

(2) Addresses the following major national health concerns by providing learning experiences either in the project or in other aspects of its comprehensive school health education program:

(i) Nutrition and food.

(ii) Values of exercise.

(iii) Weight control and obesity.

(iv) Immunization.

(v) Mental health.

(vi) Medical, dental, and other health care.

(vii) Consumer health interests.

(viii) Environmental conditions affecting health.

(ix) Alcohol and drug abuse.

(x) Safety and accident prevention.

(3) Provides learning experiences also, as appropriate, on—

(i) Community health;

(ii) Dental health and oral hygiene;

(iii) Chronic disease—risk factors and prevention;

(iv) Communicable disease—prevention and control;

(v) Family life education;

(vi) First aid and cardio-pulmonary resuscitation;

(vii) Health careers;

(viii) Personal grooming and body care;

(ix) Physical fitness;

(x) Sleep, rest, and relaxation; and

(xi) Work and recreation;

(4) Selects and organizes these learning experiences in a progressive sequence according to the assessed needs, interests, developmental level, and previous experiences of students.

(20 U.S.C. 3021-3023)

§ 1611.21 Additional project requirements—general.

A comprehensive school health education project must also—

(a) Include a thorough evaluation design to assess student and staff competencies and performance in terms of behavioral skills and practices as well as knowledge;

(b) Assess the adequacy of administrative, teaching, and support personnel for the comprehensive school education program, and provide necessary training opportunities;

(c) Use and coordinate appropriate resources of public and private agencies and organizations concerned with developing, improving, and expanding school health education and other aspects of the program; and

(d) Meet the requirements of Section 302 of the Elementary and Secondary Education Act, as amended, regarding participation of children in private, non-public schools.

(20 U.S.C. 2942; 20 U.S.C. 3021–3023)

§ 1611.22 Additional project requirements—SEAs.

An SEA project must demonstrate leadership activities to improve comprehensive school health education programs in the elementary and secondary schools of several or all of the LEAs in the State. These activities include—

(a) Development and provision of technical assistance and health education materials; and

(b) Identification, validation, and dissemination of successful health education practices and materials.

§ 1611.23 Additional project requirements—LEA's.

(a) An LEA project must provide learning experiences at the elementary or secondary level, or at both levels.

(b) An LEA project must be implemented at one or more schools in the LEA. The Commissioner encourages projects that implement a comprehensive school health education program throughout the LEA.

§ 1611.24 Project duration.

The Commissioner approves projects of up to five years in duration if that length of time is demonstrated to be essential to implementing and evaluating a comprehensive school health education program. The Commissioner encourages projects of one to three years' duration.

(20 U.S.C. 3021–3024)

Subpart C—How to Apply for a Grant

§ 1611.30 Procedures for applying.

In applying for a grant, an SEA or an LEA shall follow the procedures and meet the requirements stated in EDGAR.

§ 1611.31 Limitations on the number of applications.

An SEA or an LEA may submit only one application in a fiscal year for assistance under this part.

§ 1611.32 State review of applications.

(a) The Commissioner does not approve an application from an LEA unless its SEA has had an opportunity to review and comment on the application.

(b) An LEA applicant and its SEA shall follow the State review procedures outlined in EDGAR.

§ 1611.33 Open meetings to be held by LEAs.

Prior to submitting an application, an LEA shall hold an open meeting that complies with the provisions in EDGAR.

(Sec. 20 U.S.C. 3023; 20 U.S.C. 3386)

Subpart D—How Grants Are Made

§ 1611.40 Review, selection, and approval of applications.

The procedures for review, selection, and approval of applications under this part are presented in EDGAR.

§ 1611.41 Criteria for selection of projects.

(a) *How selection criteria are used under this part.* (1) In evaluating an application, the Commissioner uses general selection criteria, as well as the criteria that are specific to the Health Education Program.

(2) The criteria that are used in evaluating applications for grants under this part incorporate the general selection criteria of EDGAR.

(b) *How selection criteria are organized.* (1) The selection criteria are organized in three sections:

(i) The first describes criteria that apply to applications from both SEAs and LEAs.

(ii) The second describes criteria specific to SEA applications.

(iii) The third describes criteria specific to LEA applications.

(2) The criteria are weighted and are based on a total possible score of 100.

§ 1611.42 Criteria that apply to applications from both SEAs and LEAs.

(a) Under the weighting system, the criteria of this section represent a maximum score of 28 points for either an SEA or an LEA application.

(b) The Commissioner reviews an application from an SEA or an LEA for

information on the following criteria and gives up to the maximum point values shown:

(1) *Plan of operation (13 points).* (i) How the objectives and activities of the project relate to, and will contribute to, the purpose of this part and to the overall school health program of the SEA or the LEA.

(ii) High quality in the overall design of the proposed project.

(iii) An effective plan of management of the program.

(iv) The way the applicant plans to use its resources and staff to achieve each objective.

(2) *Quality of staff (10 points).* (i) The qualifications—including the professional training, experience, and competency in the field of comprehensive school health education—that are established for the employment of the following staff:

(A) The project director.

(B) Every member of the professional staff.

(C) Each consultant.

(D) Support staff.

(ii) Of the maximum 10 points allotted to this criterion a maximum of four are allotted to the qualifications of the project director, four to the other professionals on the project staff and consultants, and two to the project support staff.

(3) *Budget and cost effectiveness (5 points).* (i) An effective plan of financial management.

(ii) An itemized statement of cost that justifies each line item in the budget.

(iii) A showing that costs are reasonable in relation to the objectives of the project.

§ 1611.43 Additional criteria that apply to applications from SEAs.

(a) Under the weighting system, the criteria of this section represent a maximum score of 72 points. The combined scores of this section and § 1611.42(b) add up to a total possible score of 100.

(b) The Commissioner reviews an application from an SEA for information on the following criteria and gives up to the maximum point values shown:

(1) *Quality and comprehensiveness (14 points).* (i) The extent to which the project is likely to enhance substantially the quality and scope of comprehensive school health education programs in LEAs throughout the State.

(ii) The extent and nature of the component on the effects of smoking.

(iii) The extent to which the project addresses modern-day health problems and issues—such as immunization, obesity and weight control, lack of

exercise, mental health, nutrition, accidents, alcohol and drug abuse, environmental conditions affecting health, consumer health interests, and availability and use of medical, dental, and other health-care services—or, if any of these problems and issues are not included in the proposed project, the way the applicant plans to treat them in other aspects of the comprehensive school health education program.

(iv) The scope of other curriculum offerings to be considered; and

(v) The quality of the project plans to organize instructional materials and implement curriculum improvements.

(2) Training of school health

personnel (14 points). (i) A plan to assess the adequacy of school health education personnel—in terms of both numbers and competencies—to serve the students in the elementary and secondary schools of the State.

(ii) The quality of preservice and inservice training activities planned to prepare and train the required numbers of school health education specialists, elementary school classroom teachers, health teachers in secondary schools, and other related school personnel.

(iii) Provisions to certify qualified health education personnel and encourage their employment in schools and administrative offices of LEAs.

(3) Evaluation plan (14 points). (i) A method to determine the extent to which the project achieves each of its objectives, using quantifiable data insofar as possible.

(ii) How the effectiveness of the project in advancing the State's overall school health program will be evaluated.

(4) Quality of dissemination and extension of comprehensive school health education programs (10 points).

(i) How the project will help to establish new comprehensive school health education programs in schools of the State.

(ii) The quality of the plan to make information about the project available to interested agencies and institutions and the general public.

(5) Adequacy and coordination of resources (10 points). (i) The extent to which the project will seek out, use, and coordinate Federal, State, and other programs and resources that will help improve the quality of the comprehensive school health education program.

(ii) The adequacy of the support staff that the applicant plans to use.

(iii) The adequacy of facilities and the equipment that the applicant plans to use.

(iv) Ways in which the project is designed to promote or strengthen

cooperation among State educational, public health, and other agencies and organizations concerned with the improvement of comprehensive school health education programs.

(6) Promotion of exemplary programs (5 points). Procedures designed to identify, validate, and promote the adoption of innovative, successful, and exemplary school health education projects, practices, and instructional materials.

(7) State continuation of the project (5 points). The likelihood that the State will continue the project after Federal assistance ends as indicated by—

(i) The applicant's staffing and financial commitments; and

(ii) The project design for building State capacity to provide program leadership and, especially, to assist LEAs to carry out comprehensive health education programs.

§ 1611.44 Additional criteria that apply to applications from LEAs.

(a) Under the weighting system, the criteria of this section represent a maximum score of 72 points. The combined maximum scores of this section and § 1611.42(b) equal a total possible score of 100.

(b) The Commissioner reviews an application from an LEA for information on the following criteria and gives up to the maximum point values shown:

(1) Quality and comprehensiveness (14 points). (i) Ways the project will assess and address the health needs of individual students and the community.

(ii) The extent and nature of the component on the effects of smoking.

(iii) The extent to which the project addresses modern-day health problems and issues—such as immunization, obesity and weight control, lack of exercise, nutrition, alcohol and drug abuse, mental health, accidents, environmental conditions affecting health, consumer health interests, and availability and use of medical, dental, and other health-care services—or, if any of these problems and issues are not included in the proposed project, the way the applicant plans to treat them in other aspects of the comprehensive school health education program.

(iv) The scope of other curriculum offerings to be included.

(v) How the project is designed to enhance the quality and scope of the comprehensive health education program in one or more schools of the LEA.

(2) Training of school health

personnel (14 points). (i) A plan to assess the adequacy of school health personnel—both in terms of numbers

and competencies—in the administrative offices and in the schools of the LEA.

(ii) The quality of inservice training activities planned to improve the qualifications of health education specialists, elementary school classroom teachers, health teachers in secondary schools, and other school personnel associated with the school or schools involved in the project.

(iii) Plans to foster adequate staffing of comprehensive school health education programs to serve the students in public and private, nonprofit elementary and secondary schools of the area.

(3) Evaluation plan (14 points). (i) The thoroughness and quality of procedures incorporated in the project for determining the effects of the health education experiences on the students' understanding, attitudes, and behavioral skills and practices, using quantifiable data insofar as possible.

(ii) A method to determine the extent to which the project achieves its other objectives, using quantifiable data insofar as possible.

(iii) How the LEA plans to evaluate the effectiveness of the project in advancing the LEA's overall school health program.

(4) Quality of dissemination and extension of comprehensive school health education programs (10 points).

(i) Procedures designed to transfer to schools of the LEA area, that are not included in the project, the benefits and the successful practices and materials to be derived from the project.

(ii) The quality of the plan to make information about the project available to interested agencies and institutions and the general public.

(5) Adequacy and coordination of resources (10 points). (i) How the project will seek out, use, and coordinate Federal, State, local, and other programs and resources that will enhance the development or improve the quality of the LEA's comprehensive school health education program.

(ii) The adequacy of the support staff that the applicant plans to use.

(iii) The adequacy of the facilities and equipment that the applicant plans to use.

(iv) How the project will promote and strengthen cooperation among local educational and public health agencies and other agencies, organizations, and institutions concerned with the improvement of health education programs as part of the overall school health programs of the schools of the area.

(6) *Promotion of exemplary programs (5 points).* Plans for cooperation with officials of the SEA for possible validation of the project and for promotion of the adoption of the project's proven practices and materials by other LEAs in the State.

(7) *Local continuation of the project (5 points).* The likelihood that the LEA will continue the project after Federal assistance is ended as indicated by—

(i) The applicant's staffing and financial commitments; and

(ii) The project design for building local capacity to provide leadership and assistance to schools of the area to carry out comprehensive school health education programs.

(20 U.S.C. 3021–3024)

§ 1611.45 Encouragement of SEA and LEA coordination.

The Commissioner reserves the discretion to fund an SEA project and a LEA project in the same State where the projects have been jointly planned and complement each other—and are judged of high quality in their respective categories—but where one of the two projects would not otherwise be funded.

(20 U.S.C. 3022)

§ 1611.46 Geographic diversity and variety of settings.

The Commissioner selects, among relatively equal projects (within 10 points of one another), those that contribute to geographic diversity of projects and projects in a variety of urban, suburban, and rural settings.

(20 U.S.C. 3021–3024)

Subpart E—Conditions That Must Be Met By A Grantee

§ 1611.50 Allowable costs.

In addition to other direct and indirect costs of project activities, a grantee may use funds for released time for teachers to participate in inservice training opportunities if those costs cannot be met in any other feasible way.

§ 1611.51 Non-allowable costs.

The following are non-allowable uses of funds from a grant to an SEA or an LEA:

(a) Medical, dental, or other health-care services.

(b) Support for programs of physical education except for limited activities that are directly related to and that reinforce instruction on exercise physiology, fitness, or the values of exercise and weight-control.

(c) Support for school programs of sports and competitive athletics.

(d) Stipends for teachers or others participating in inservice training activities.

(e) Any services or activities related to the project that were supported with funds from any other source during a reasonable period prior to the grant award, as determined by the Commissioner.

§ 1611.52 Coordination and non-duplication with other health-education related programs.

(a) An SEA or LEA shall use funds received under this part in coordination with any other health-education related programs that the applicant may be undertaking, and shall not use these funds to duplicate any other program.

(b) Grantees shall also comply with the provisions of EDGAR concerning coordination.

(Sec. 363, 20 U.S.C. 3023)

§ 1611.53 Participation of children in private, nonprofit elementary and secondary schools.

An applicant shall meet the requirements for participation of children in private, nonprofit elementary and secondary schools stated in Sec. 302(b) of Part A, Title III, of the Elementary and Secondary Education Act, as amended by the Education Amendments of 1978, and in EDGAR.

(Sec. 20 U.S.C. 2942; 20 U.S.C. 3021–3023)

Appendix A—Examples of Allowable SEA Project Activities

The following are examples of activities for which a grantee may use funds in an SEA project under the Health Education Program:

(a) The assessment of needs and the development or improvement of State curriculum requirements, courses of study, and instructional materials for the comprehensive school health education program.

(b) Special efforts to identify and analyze the educational implications of significant, current, health-related concerns, such as, smoking, alcohol and drug abuse, inadequate exercise, poor nutritional practices, obesity and weight control, inadequate immunization, mental health, accidents, availability and use of medical, dental and other health-care services, environmental conditions that affect health, and consumer health interests; provision of technical assistance and educational materials to LEAs to demonstrate and evaluate effective ways of dealing with these concerns in the context of a comprehensive school health education program.

(c) The study of qualifications required and the establishment of standards for the certification of school health administrators, consultants or other school health education specialists, teachers—including elementary classroom teachers—and other appropriate instructional staff.

(d) The organization and conduct of inservice workshops and other training experiences, relative to comprehensive school health education programs.

(e) In cooperation with institutions of higher education, the development of procedures for the preservice preparation of health education specialists, elementary classroom teachers, and secondary school health teachers for their respective responsibilities for comprehensive school health education.

(f) The provision of awareness clinics and other participatory opportunities for school administrators, school board members, parents, and other public-minded citizens whose interest and support may help improve the overall school health program and, in particular, the comprehensive school health education component.

(g) The development, improvement, and application of evaluative techniques, data collection, and other aspects of careful and sound evaluation.

(h) The correlation of activities undertaken with grant funds under this part with other appropriate State and Federal programs.

(i) The coordination of SEA efforts with those of State and local public health agencies, medical and dental societies and their auxiliary organizations, and other public, professional private, voluntary, and civic organizations concerned with the improvement of school health education programs.

(j) The establishment, development, and evaluation of pilot programs of comprehensive school health education.

(k) The identification, evaluation, validation, and dissemination of innovative, successful, or exemplary projects, practices, and instructional materials in comprehensive school health education.

Appendix B—Examples of Allowable LEA Project Activities

The following are examples of activities for which a grantee may use funds in an LEA project under the Health Education program:

(a) The review or adaptation and use of State courses of study and instructional guides in health education, and the development or improvement of local curriculum materials.

(b) The development and implementation of innovative and exemplary methodologies, instructional materials, and staffing patterns in the education of elementary and secondary school students relating to health maintenance and enhancement and the prevention of disease, illness, and injury.

(c) The demonstration and evaluation of effective ways of dealing—within the context of a comprehensive school health education program—with significant current, health-related concerns, such as smoking, alcohol and drug abuse, inadequate exercise, poor nutritional practices, obesity and weight-control, immunization, mental health, accidents, availability and use of medical, dental, and other health-care services, environmental conditions that affect health, and consumer health interests.

(d) The organization and conduct of inservice workshops and other training experiences for personnel who serve in the LEA's comprehensive school health education program.

(e) The provision of awareness clinics and other opportunities for administrative staff, members of the local school board, parents, and other public-minded citizens whose interest and support are important to the improvement of the overall school health program and, in particular, the comprehensive school health education component.

(f) The correlation of project activities with other health-related programs and resources available to the LEA.

(g) The identification and involvement—and the coordination of programs and services—of State and local educational and public health agencies, medical and dental societies and their auxiliary organizations, and other public, professional, voluntary, private, and civic agencies and organizations in implementing project objectives.

(h) The identification of practices, products, staff development techniques, and materials which are demonstrated by the project to be successful and—in cooperation with the SEA—their validation and replication.

(i) Participation in local or State-sponsored pilot programs of comprehensive school health education.

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BILLING CODE 4110-02-M

Final
Revision
in
Requirements

Wednesday
June 13, 1979

Part III

Department of State

Agency for International Development

**Transfer of Food Commodities for Use in
Disaster Relief and Economic
Development, and Other Assistance; Final
Revision in Requirements**

DEPARTMENT OF STATE

Agency for International Development

22 CFR Part 211

[A.I.D. Regulation 11]

Transfer of Food Commodities for Use in Disaster Relief and Economic Development, and Other Assistance; Final Revision in Requirements

AGENCY: Agency for International Development (A.I.D.).

ACTION: Final rules.

SUMMARY: These final rules amend A.I.D. Regulation 11 to conform it to amendments made to Title II of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480), by the International Development and Food Assistance Act of 1977 (Pub. L. 95-88) and the Food and Agriculture Act of 1977 (Pub. L. 95-113). In addition, these rules clarify the responsibilities of cooperating sponsors with respect to the conduct of independent cargo surveys in the case of discharge of bulk grain shipments; provide authority to reimburse voluntary agencies for costs of rebagging commodities in foreign countries; make modifications in record-keeping requirements for Title II emergency programs; and make other minor editorial and language changes needed to clarify the Regulation. The text of these final rules, published in the Federal Register as proposed rules on January 4, 1979 (44 FR 1123) remains unchanged except for the withdrawal of the proposed administrative requirements for expanding and detailing the responsibilities of voluntary agencies and their freight forwarders included in the Regulation as § 211.4(b)(3).

EFFECTIVE DATE: June 13, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Jessie C. Vogler, Office of Food for Peace, Bureau for Private and Development Cooperation, Room 540, P.P. Bldg., Agency for International Development, Department of State, Washington, D.C. 20523.

SUPPLEMENTARY INFORMATION: Under provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480), A.I.D. is authorized to provide agricultural commodities to foreign governments, U.S. and foreign Voluntary Agencies, or intergovernmental organizations to meet famine or other urgent or extraordinary relief requirements, to combat

malnutrition, and to promote economic and community development. A.I.D. Regulation 11, 22 CFR Part 211-Transfer of Food Commodities for Use in Disaster Relief and Economic Development, and Other Assistance, contains the regulations prescribing the terms and conditions governing the transfer of U.S. agricultural commodities pursuant to Title II of Pub. L. 480.

The text of the proposed rules of A.I.D. Regulation 11 was published in the Federal Register on pages 1123 through 1134, January 4, 1979. The 30-day comment period was extended to March 5, 1979 in response to a request from the Members of the Material Resources Committee of the American Council of Voluntary Agencies for Foreign Service, Inc., and their freight forwarders to enable them to meet and consider the rules in § 211.4(b)(3) in the Regulation, proposed by the U.S. Department of Agriculture, ASCS/Commodity Credit Corporation. These proposed rules would expand and detail the responsibilities of the voluntary agencies and their freight forwarders with regard to the receipt and handling of Title II commodities at port of export.

Specific Comments

During the comment period, the only comments received on the proposed rules were those from the Material Resources Committee of the American Council of Voluntary Agencies for Foreign Service, Inc., hereafter referred to as the Committee. Their comments, which were limited to the proposed administrative requirements contained in § 211.4(b)(3), set forth reasons why they believe these proposed rules would be either unworkable or too difficult to implement. Further, the Committee requested that a meeting be held with officials of their freight forwarders, the U.S. Department of Agriculture, ASCS/Commodity Credit Corporation and A.I.D., Office of Food for Peace, Bureau for Private and Development Cooperation, for the purpose of resolving the issues and concerns of the Committee and their freight forwarders with respect to the proposed rules in question.

On April 18, 1979, a meeting was held with the appropriate U.S. Government officials, the Committee and their freight forwarders. It was decided at that meeting to withdraw the proposed new rule in its entirety, as set forth in the Regulation, § 211.4(b)(3). With the exception of this deletion, the Regulation remains unchanged as published in the Federal Register, pages 1123-1134, on January 4, 1979.

The revisions listed below update A.I.D. Regulation 11 to reflect amendments to Title II of Pub. L. 480 contained in the International Development and Food Assistance Act of 1977 (Pub. L. 95-88) and the Food and Agriculture Act of 1977 (Pub. L. 95-113) and incorporate other necessary changes. These latter changes include authority to reimburse voluntary agencies for the costs of rebagging Title II commodities in foreign countries in certain circumstances, a new provision regarding responsibilities of cooperating sponsors with respect to the conduct of independent cargo surveys in the case of discharge of bulk grain shipments, modifications in record-keeping requirements for Title II emergency programs; and other minor editorial and language changes needed to clarify the Regulation.

The principal changes in the Regulation are as follows:

1. The statutory excerpts in § 211.1(b), subsections (2) through (7) have been revised to conform them to changes in Pub. L. 480.

2. Section 211.2(c) has been revised to include foreign nonprofit voluntary agencies registered with the Advisory Committee on Voluntary Foreign Aid within the term "cooperating sponsor." Under the 1977 amendments registered foreign Private Voluntary Organizations (PVOs) were made eligible for receipt of Title II commodities when no registered U.S. Private Voluntary Organization is available to provide such assistance. Section 211.2(r) has also been revised to include foreign nonprofit voluntary agencies within the term "voluntary agency."

3. In § 211.2(l), the words "expecting and lactating mothers" has been changed to "women of childbearing age" in order to more clearly reflect the intended beneficiaries of maternal and pre-school feeding programs.

4. Section 211.4(c)(3) has been revised by deleting language relating to general average contributions, which is relocated to § 211.9(h); and adds new provisions authorizing reimbursement of ocean freight charges to inland points of entry in four situations. Regulation 11 and Section 203 of Pub. L. 480 previously authorized reimbursement to points of entry other than ports only in the case of landlocked countries.

5. Section 211.4(e), General Average, has been relocated to § 211.9(h) and § 211.4 (f) and (g) redesignated (e) and (f), respectively.

6. New provisions have been added to § 211.5(a) requiring, as part of cooperating sponsor program descriptions, information from which

determination can be made that Title II programs will not have a disincentive effect on the domestic agricultural production of the recipient country and that adequate storage will exist for Title II commodities in the recipient country. Amendments to Pub. L. 480 now require such determinations to be made before P.L. 480 commodities may be made available.

Z. Section 211.5(b) has been revised to include foreign private voluntary organizations in the requirement for a local representative responsible to such organization for the supervision and control of the program within the country of distribution.

8. A new § 211.7(e) has been added which authorizes the reimbursement of the costs (up to \$500) of rebagging Title II commodities in a foreign country by cooperating sponsors when necessary to ensure that the commodity arrives at the distribution point in wholesome condition. In order to obtain reimbursement for costs exceeding \$500 they must be authorized by the USAID or Diplomatic Post in advance of repackaging unless such prior approval is specifically waived in writing. This new reimbursement authority was added to implement a primary purpose of Title II of Pub. L. 480, i.e., the use of the abundant agricultural productivity of the United States to combat hunger and malnutrition. The failure to repackage commodities held in damaged bags could well result in the loss of such items to the program itself.

9. Section 211.9(c)(1)(iii), relating to ocean carrier loss and damage, has been revised to more clearly state the responsibilities of cooperating sponsors with respect to the conduct of independent cargo surveys in the case of discharge of bulk grain shipments. Section 211.9(c)(1)(iv), which provides for a location for submitting certain reports, has been deleted and § 211.9(c)(1)(v) redesignated § 211.9(c)(1)(iv).

10. Section 211.9(c)(2)(ii)(e) has been modified to raise from \$400 to \$600 the upper limit of a claim that voluntary agencies may terminate collection activity on without the prior approval of the Commodity Credit Corporation.

11. A new § 211.9(h) has been added consolidating in one place provisions regarding the handling of general average claims. This Section is substantially the same as the present § 211.4(e).

12. A new § 211.10(b)(r) and an additional sentence has been added to § 211.10(c) regarding reporting requirements and auditing for Title II emergency programs in which normal

record-keeping requirements cannot be followed because of the emergency nature of the program. The new provision permits the Mission concerned to authorize alternative record-keeping methods if necessary which provide, nevertheless, for the recording of essential information necessary to account for Title II commodities in such situations. Inspections and audits of emergency programs are to take into account the circumstances under which such programs are carried out.

13. Other grammatical or minor conforming revisions have been made to §§ 211.5(c)(2), 211.7(a), 211.7(c), 211.9(c)(1)(iii), 211.9(c)(2)(ii)(a), 211.9(c)(2)(ii)(b) (1) and (2), 211.9(c)(2)(iii), 211.9(g), and 211.10(b)(2).

Because of the substantial revisions, A.I.D. Regulation 11, as revised, is printed below in its entirety. Therefore, 22 CFR Part 211 is revised to read as follows:

PART 211—TRANSFER OF FOOD COMMODITIES FOR USE IN DISASTER RELIEF AND ECONOMIC DEVELOPMENT, AND OTHER ASSISTANCE

Sec.

- 211.1 General purpose and scope.
- 211.2 Definitions.
- 211.3 Cooperating sponsor agreements.
- 211.4 Availability of commodities.
- 211.5 Obligations of cooperating sponsors.
- 211.6 Processing, repackaging, and labeling commodities.
- 211.7 Arrangements for entry and handling in foreign country.
- 211.8 Disposition of commodities unfit for authorized use.
- 211.9 Liability for loss and damage or improper distribution of commodity.
- 211.10 Records and reporting requirements of cooperating sponsor.
- 211.11 Termination of program.
- 211.12 Waiver and amendment authority.

Authority: Secs. 105, 201, 202, 203, and 305, Agricultural Trade Development and Assistance Act of 1954, as amended, 7 U.S.C. 1705, 1721, 1722, 1723, and 1693; 68 Stat. 454, as amended.

§ 211.1 General purpose and scope.

(a) *Terms and conditions.* This Part 211 contains the regulations prescribing the terms and conditions governing the transfer of agricultural commodities to foreign governments, U.S. voluntary agencies, or intergovernmental organizations (except the World Food Program and United Nations Relief and Works Agency) pursuant to Title II, the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480, 83rd Congress, as amended).

(b) *Legislation.* The legislation implemented by the regulations in this part is as follows:

(1) Section 2(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides that in furnishing food aid, the President shall:

relate United States food assistance to efforts by aid-receiving countries to increase their own agricultural production, with emphasis on development of small, family farm agriculture, and improve their facilities for transportation, storage, and distribution of food commodities.

(2) Section 201 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

(a) The President is authorized to determine requirements and furnish agricultural commodities on behalf of the people of the United States of America, to meet famine or other urgent or extraordinary relief requirements; to combat malnutrition, especially in children; to promote economic and community development in friendly developing areas, and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States. The Commodity Credit Corporation shall make available to the President such agricultural commodities determined to be available under section 401 as he may request.

(b) The minimum quantity of agricultural commodities distributed under this title—(1) for fiscal years 1978 through 1980 shall be 1,600,000 metric tons, of which not less than 1,300,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program; (2) for fiscal year 1981 shall be 1,650,000 metric tons, of which not less than 1,350,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program; and (3) for fiscal year 1982 and each fiscal year thereafter shall be 1,700,000 metric tons, of which not less than 1,400,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program; unless the President determines and reports to the Congress, together with his reasons, that such quantity cannot be used effectively to carry out the purposes of this title: *Provided*, That such minimum quantity shall not exceed the total quantity of commodities determined to be available for disposition under this Act pursuant to section 401, less the quantity of commodities required to meet famine or other urgent or extraordinary relief requirements.

(3) Section 202 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

(a) The President may furnish commodities for the purposes set forth in section 201 through such friendly governments and such agencies, private or public, including intergovernmental organizations such as the World Food Program and other multilateral

organizations in such manner and upon such terms and conditions as he deems appropriate. The President shall, to the extent practicable, utilize nonprofit voluntary agencies registered with, and approved by, the Advisory Committee on Voluntary Foreign Aid. If no United States nonprofit voluntary agency registered with and approved by the Advisory Committee on Voluntary Foreign Aid is available, the President may utilize a foreign nonprofit voluntary agency which is registered with and approved by the Advisory Committee. Insofar as practicable, all commodities furnished hereunder shall be clearly identified by appropriate markings on each package or container in the language of the locality where they are distributed as being furnished by the people of the United States of America. Except in the case of emergency, the President shall take reasonable precaution to assure that commodities furnished hereunder will not displace or interfere with sales which might otherwise be made.

(b)(1) Assistance to needy persons under this title shall be directed, insofar as practicable, toward community and other self-help activities designed to alleviate the causes of need for such assistance.

(2) In order to assure that food commodities made available under this title are used effectively, indigenous workers shall be employed, to the extent feasible, to provide information on nutrition and conduct food distribution programs in the most remote villages.

(3) In distributing food commodities under this title, priority shall be given, to the extent feasible, to those who are suffering from malnutrition by using means such as (A) giving priority within food programs for preschool children to malnourished children, and (B) giving priority to the poorest regions of countries.

(4) Section 203 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

The Commodity Credit Corporation may, in addition to the cost of acquisition, pay with respect to commodities made available under this title costs for packaging, enrichment, preservation, and fortification, processing, transportation, handling, and other incidental costs up to the time of their delivery free on board vessels in U.S. ports. Ocean freight charges from U.S. ports to designated ports of entry abroad; transportation from United States ports to designated points of entry abroad in the case (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specific country are unavailable, or (4) where a substantial savings in cost or time can be effected by the utilization of points of entry other than ports; and charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

(5) Section 204 of the Agricultural Trade Development and Assistance Act

of 1954, as amended, provides in part as follows:

Programs of assistance shall not be undertaken under this title during any calendar year which call for an appropriation of more than \$750,000,000⁴⁵ to reimburse the Commodity Credit Corporation for all costs incurred in connection with such programs (including the Corporation's investment in commodities made available) plus any amount by which programs of assistance undertaken under this title in the preceding calendar year have called or will call for appropriations to reimburse the Commodity Credit Corporation in amounts less than were authorized for such purpose during such preceding year.

In addition to other funds available for such purposes under any other act, funds made available under this title may be used in an amount not exceeding \$7,500,000 annually to purchase foreign currencies accruing under title I of this Act in order to meet costs (except the personnel and administrative costs of cooperating sponsors, distributing agencies, and recipient agencies; and the costs of construction or maintenance of any church owned or operated edifice or any other edifices to be used for sectarian purposes) designed to assure that commodities made available under this title are used to carry out effectively the purposes for which such commodities are made available or to promote community and other self-help activities designed to alleviate the causes or the need for such assistance: *Provided, however,* That such funds shall be used only to supplement and not substitute for funds normally available for such purposes from other non-United States Government sources.

(6) Section 206 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides in part as follows:

Except to meet famine or other urgent or extraordinary relief requirements, no assistance under this title shall be provided under an agreement permitting generation of foreign currency proceeds unless (1) the country receiving the assistance is undertaking self-help measures in accordance with section 109 of this Act, (2) the specific uses to which the foreign currencies are to be put are set forth in a written agreement between the United States and the recipient country, and (3) such agreement provides that the currencies will be used for increasing the effectiveness of the programs of food distribution and increasing the availability of food commodities provided under this title to the neediest individuals in recipient countries. The President shall include information on currencies used in accordance with the section in the reports required under section 408 of this Act and section 657 of the Foreign Assistance Act of 1961.

(7) Section 401 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

(a) After consulting with other agencies of the Government affected and within policies laid down by the President for implementing this Act, and after taking into account productive capacity, domestic requirements, farm and consumer price levels, commercial exports and adequate carryover, the Secretary of Agriculture shall determine the agricultural commodities and quantities thereof available for disposition under this Act, and the commodities and quantities thereof which may be included in the negotiations with each country. No commodity shall be available for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary of Agriculture at the time of exportation of such commodity, unless the Secretary of Agriculture determines that some part of the supply thereof should be used to carry out urgent humanitarian purposes of this Act.

(b) No agricultural commodity may be financed or otherwise made available under the authority of this Act except upon a determination by the Secretary of Agriculture that (1) adequate storage facilities are available in the recipient country at the time of exportation of the commodity to prevent the spoilage or waste of the commodity, and (2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to domestic production in that country.

(8) Section 402 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides, in part, as follows:

The term "agricultural commodity" as used in this Act shall include any agricultural commodity produced in the United States or product thereof produced in the United States: *Provided, however,* That the term "agricultural commodity" shall not include alcoholic beverages, and for the purposes of title II of this Act, tobacco or products thereof. Subject to the availability of appropriations therefor, any domestically produced fishery product may be made available under this Act.

(9) Section 404 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

The programs of assistance undertaken pursuant to this Act shall be directed toward the attainment of the humanitarian objectives and national interest of the United States.

(10) Section 405 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

The authority and funds provided by this Act shall be utilized in a manner that will assist friendly countries that are determined to help themselves toward a greater degree of self-reliance in providing enough food to meet

the needs of their people and in resolving their problems relative to population growth.

§ 211.2 Definitions.

(a) "AID" means the Agency for International Development or any successor agency, including, when applicable, each USAID. "USAID" means an office of AID located in a foreign country. "AID/W" means the Office of AID located in Washington, D.C.

(b) "CCC" means the Commodity Credit Corporation, a corporate agency and instrumentality of the United States within the U.S. Department of Agriculture.

(c) "Cooperating sponsor" means the foreign government, the U.S. registered nonprofit voluntary agency, the American National Red Cross, or the intergovernmental organization, which enters into an agreement with the U.S. Government for the use of agricultural commodities and/or funds (including local currencies), and which is directly responsible under the agreement for administration and implementation of and reporting on programs involving the use of the commodities and/or funds made available to meet the requirements of eligible recipients. The term also includes foreign nonprofit voluntary agencies registered with the Advisory Committee on Voluntary Foreign Aid entering into such agreements following a determination of unavailability of a U.S. registered nonprofit voluntary agency to provide the assistance.

(d) "Diplomatic Posts" means the offices of the Department of State located in foreign countries, and may include Embassies, Legations, and Consular offices.

(e) "Disaster relief organizations" means organizations which are authorized by AID/W, USAID, or by a Diplomatic Post to assist disaster victims.

(f) "Disaster victims" means persons who, because of flood, drought, fire, earthquake, other natural or manmade disasters, or extraordinary relief requirements, are in need of food, feed, or fiber assistance.

(g) "Duty free" means exempt from all customs duties, duties, tolls, taxes or governmental impositions levied on the act of importation.

(h) "Food for Peace Program Agreement" constitutes the agreement between the cooperating sponsor(s) and the U.S. Government. The Food for Peace Program Agreement may be specific, listing the kinds and quantities of commodities to be supplied, program objectives, criteria for eligibility of

recipients, plan for distribution of commodities, and other specific program provisions in addition to the provisions set forth in this part; or it will state that the cooperating sponsor will comply with this part and such other terms and conditions as set forth in other AID programing documents.

(i) "Institutions" means nonpenal, public or nonprofit private establishments that are operated for charitable or welfare purposes where needy persons reside and receive meals, including, but not limited to, homes for the aged, mentally and physically handicapped, refugee camps, and leprosy asylums.

(j) "Intergovernmental organizations" means agencies sponsored and supported by the United Nations organization or by two or more nations, one of which is the United States of America.

(k) "Maternal-child feeding, primary school and other child feeding programs":

(1) Maternal and preschool feeding programs means programs conducted for women of child bearing age, for mothers with preschool children, and for children below the usual enrollment age for the primary grade at public schools.

(2) School feeding programs refers to programs conducted for the benefit of children enrolled in primary schools.

(3) Other child feeding programs refers to programs designed to reach preschool or primary school age, needy children in child care centers, orphanages, institutions, nurseries, kindergartens, and similar activities.

(l) "Nonprofit" means that the residue of income over operating expenses accruing in any activity, project, or program is used solely for the operation of such activity, project, or program.

(m) "Primary School" means a public or nonprofit facility, or an activity within such facility, which has as its primary purpose the education of children at education levels which are generally comparable to those of elementary schools in the United States.

(n) "Recipient agencies" means schools, institutions, welfare agencies, disaster relief organizations, and public or private agencies whose food distribution functions are sponsored by the cooperating sponsor and who receive commodities for distribution to eligible recipients. A cooperating sponsor may be a recipient agency.

(o) "Recipients" means persons who are in need of food assistance because of their economic condition or who are otherwise eligible to receive commodities for their own use in accordance with the terms and

conditions of the Food for Peace Program Agreement.

(p) "Refugees" means persons who fled or were forced to leave their country of nationality or residence and are living in a country other than that of which they hold or have held citizenship or in a part of their country of nationality or residence other than that which they normally consider their residence, and become eligible recipients.

(q) "USDA" means the U.S. Department of Agriculture.

(r) "Voluntary Agency" means the American National Red Cross and any U.S. or foreign voluntary nonprofit agency registered with, and approved by, the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development.

(s) "Welfare agencies" means public or nonprofit private agencies that provide care, including food assistance, to needy persons who are not residents of institutions.

§ 211.3 Cooperating sponsor agreements.

(a) *Food for Peace Program Agreement.* The cooperating sponsor shall enter into a written agreement with AID by assigning a Food for Peace Program Agreement which shall incorporate by reference or otherwise the terms and conditions set forth in this part.

(b) *Individual Country Food for Peace Program Agreement.* Voluntary agencies or intergovernmental organizations shall, in addition to the Food for Peace Program Agreement, enter into a separate written Food for Peace Agreement with the foreign government of each cooperating country. This agreement shall incorporate by reference or otherwise the terms and conditions set forth in this part; Provided, however, that where such written agreement is not feasible or practicable, the USAID or Diplomatic Post shall assure AID/W that the program can be effectively operated without such an agreement.

§ 211.4 Availability of Commodities.

(a) *Distribution and use of commodities.* Commodities shall be available for distribution and use in accordance with the provisions of the Food for Peace Program Agreement and this part.

(b) *Transfer of title and delivery.* (1) Unless the Food for Peace Program Agreement provides otherwise, title to the commodity shall pass to the cooperating sponsor at the time and place of delivery f.o.b. or f.a.s. vessels at the U.S. ports except that in the case of

voluntary agencies and intergovernmental organizations, title may pass at the discretion of USDA at other points in the United States.

(2) Voluntary agencies and intergovernmental organizations shall make the necessary arrangements to accept commodities at the points of delivery designated by the USDA.

(c) *Processing, handling, transportation and other costs.* (1) The United States will pay processing, handling, transportation, and other incidental costs incurred in making commodities available to cooperating sponsors free on board (f.o.b.) or free along side (f.a.s.) vessel at U.S. ports, or free at inland destinations in the United States except as otherwise provided in this paragraph (c).

(2) Voluntary agencies and intergovernmental organizations shall reimburse the United States for expenses incurred at their request and for their accommodation which are in excess of those which the United States would have otherwise incurred in making delivery (i) at the lowest combination of inland and ocean transportation costs to the United States as determined by the United States or (ii) in sizes and types of packages announced as available.

(3) All costs and expenses incurred subsequent to the transfer of title in the United States to cooperating sponsors except as otherwise provided herein shall be borne by them. Upon the determination that it is in the interests of the program to do so, the United States may pay or make reimbursement for ocean transportation costs from U.S. ports to the designated ports of entry aboard; or to designated points of entry abroad in the case (i) of landlocked countries, (ii) where ports cannot be used effectively because of natural or other disturbances, (iii) where carriers to a specific country are unavailable, or (iv) where a substantial savings in cost or time can be effected by the utilization of points of entry other than ports.

(d) *Transportation authorization.* A transportation authorization will be issued to cover the ocean freight paid directly by the United States. When CCC contracts for ocean carriage, disbursement to the carriers shall be made by CCC upon presentation of Standard Form 1113 and three copies of 1113A (Public Voucher for Transportation Charges), together with three copies of the related onboard ocean bill of lading, one copy of which must contain the following certification signed by an authorized representative of the steamship company:

I certify that this document is a true and correct copy of the original onboard ocean bill of lading under which the goods herein described were loaded on the above-named vessel and that the original and all other copies thereof have been clearly marked as not to be certified for billing.

(Name of steamship co.)

By

(Authorized representative)

Such vouchers should be submitted to: Director Ocean Transportation Division, Office of the General Sales Manager, U.S. Department of Agriculture, Washington, D.C. 20250. Except for duty, taxes and other costs exempted in § 211.7 (a) and (b) of this part, voluntary agencies booking their own vessels will be reimbursed as provided in AID Regulation 2 (Part 202 of this chapter) for ocean freight authorized by the United States upon presentation to AID/W (or to a U.S. Bank holding an AID Letter of Commitment) of proof of payment to the ocean carrier.

(e) *Shipping instructions—(1) Shipments booked by CCC.* Request for shipment of commodities shall originate with the cooperating sponsor and shall be submitted to USAID or Diplomatic Post for clearance and transmittal to AID/W. AID/W shall, through cables, airmails or letters to USAID or Diplomatic Posts, provide cooperating sponsors (and where applicable voluntary agency headquarters) with names of vessels, expected times of arrival (ETAs), and other pertinent information on shipments booked by CCC. At the time of exportation of commodities, applicable ocean bills of lading shall be sent airmail, or by the fastest means available, by the freight forwarder, representing CCC, to USDA, to USAID or Diplomatic Posts (and where applicable to USAID Controller, voluntary agency headquarters, and voluntary agency field representatives), and to the consignee in sufficient time to advise of the arrival of the shipment.

(2) *Shipments booked by voluntary agency or intergovernmental organization.* Requests for shipment of commodities shall originate with the cooperating sponsor and shall be cleared by the USAID or Diplomatic Post before transmittal to the voluntary agency's or intergovernmental organization's headquarters for concurrence and issuance. USAID or Diplomatic Post shall promptly clear voluntary agency and intergovernmental organization requests for shipment of commodities or, if there is reason for delay or disapproval, advise the cooperating sponsor and AID/W within seven (7) days of receipt of requests for

shipment. After the voluntary agency or intergovernmental organization headquarters concurs in the request and issues the order, the original will be sent promptly to USDA with a copy to the USAID or Diplomatic Posts.

Headquarters of voluntary agencies and intergovernmental organizations which book their own shipments shall provide their representatives and the USAID or Diplomatic Posts with the names of vessels, expected times of arrival (ETAs) and other pertinent information on shipments booked. At the time of exportation of commodities, applicable ocean bills of lading shall be sent airmail or by the fastest means available by the freight forwarder, representing the voluntary agency or intergovernmental organization, to USDA to the USAID or Diplomatic Post (and where applicable to USAID Controller and voluntary agencies' representatives), and to the consignee in the country of destination in sufficient time to advise of the arrival of the shipment. However, voluntary agencies will also forward cable advice of actual exportation to their program directors in countries within the Caribbean area which are supplied by vessels having a rapid and short run from U.S. port to destination.

(f) *Tolerances.* Delivery by the United States to the cooperating sponsor at point of transfer of title within a tolerance of 5 percent (2 percent in the case of quantities over 10,000 metric tons) plus or minus, of the quantity ordered for shipment shall be regarded as completion of delivery. There shall be no tolerance with respect to the ocean carrier's responsibility to deliver the entire cargo shipped and the United States assumes no obligation for failure by an ocean carrier to complete delivery to port of discharge.

§ 211.5 Obligations of cooperating sponsor.

(a) *Plan of operation.* Each cooperating sponsor shall submit to the USAID or Diplomatic Post for the approval of AID/W, within such times and on the forms prescribed by AID/W, a description of the programs it is sponsoring or proposes to sponsor. This description will provide basic information for preparation and amendment of Food for Peace Program Agreements and Individual Country Food for Peace Program Agreements and will include program purposes and goals, criteria for measuring program effectiveness, and other specific provisions in addition to those set forth in this Part. Further, this description will include information from which it may

be determined that the distribution of commodities in the recipient country will not result in a substantial disincentive to domestic production and that adequate storage facilities are available in the recipient country at the time of exportation of the commodity to prevent the spoilage or waste of the commodity.

(b) *Program supervision.* Cooperating sponsors shall provide adequate supervisory personnel for the efficient operation of the program, including personnel to plan, organize, implement, control, and evaluate programs involving distribution of commodities, and, in accordance with AID guidelines, to make internal reviews, including warehouse inspections, physical inventories, and end-use checks. Maximum use of volunteer personnel shall be encouraged, but U.S. voluntary agencies shall be represented by a U.S. citizen, resident in the country of distribution or other nearby country approved by AID/W, who is appointed by and responsible to the voluntary agency for distribution of commodities in accordance with the provisions of this part. Intergovernmental organizations foreign nonprofit voluntary agencies and the American National Red Cross shall be represented by a person appointed by and responsible to these organizations for the supervision and control of the program in the country of distributions in accordance with the provisions of this part.

(c) *Internal Reviews*—(1) *Voluntary Agencies.* At intervals mutually agreed upon in writing by USAIDs or the Diplomatic Post and the voluntary agency as appropriate for good management, the voluntary agencies shall conduct or arrange to have conducted comprehensive internal reviews or a series of examinations which, when combined, will represent a complete review of the Title II program(s) under their jurisdiction. Copies of reports of these comprehensive examinations shall be submitted to USAIDs or Diplomatic Posts as required in § 211.10(b)(3).

(2) *Other Cooperating Sponsor.* In the case of programs administered by cooperating governments and intergovernmental organizations, responsibility for conducting internal audit examinations shall be determined by AID/W on a case by case basis. For records and reporting requirements for emergency programs see § 211.10(5).

(d) *Commodity requirements.* Each cooperating sponsor shall submit to the USAID or Diplomatic Post, within such times and on the form prescribed by AID/W, estimates of requirements

showing the quantities of commodities required for each program proposed. Requirements shall be summarized for all programs in the country on a form prescribed by AID/W.

(e) *Determination of eligibility.* Cooperating sponsors shall be responsible for determining that the recipients and recipient agencies to whom they distribute commodities are eligible in accordance with the terms and conditions of the Food for Peace Program Agreement and this part. Cooperating sponsor shall impose upon recipient agencies responsibility for determining that the recipients to whom they distribute commodities are eligible. Commodities shall be distributed free of charge except as provided in paragraph (i) of this section, or as otherwise authorized by AID/W.

(f) *No discrimination.* Cooperating sponsors shall distribute commodities only to eligible recipient agencies and eligible recipients without regard to nationality, race, color, sex, or religious or political beliefs, and shall impose similar conditions upon distribution by recipient agencies.

(g) *Public recognition.* To the maximum extent practicable, and with the cooperation of the host government, adequate public recognitions shall be given in the press, by radio, and other media that the commodities have been furnished by the people of the United States. At distribution centers the cooperating sponsor shall, to the extent feasible, display banners, posters, or similar media which shall contain information similar to that prescribed for containers in § 211.6(c). Recipients' individual identification cards shall, insofar as practicable be imprinted to contain such information.

(h) *Containers*—(1) *Markings.* Unless otherwise specified in the Food for Peace Program Agreement, when commodities are packaged for shipment from the United States, bags and other containers shall be marked with the CCC contract number or other identification, the AID emblem and the following information stated in English and, as far as practicable, in the language of the country receiving the commodity:

- (i) Name of the commodity.
- (ii) Furnished by the people of the United States of America.
- (iii) Not to be sold or exchanged (where applicable). Emblems or other identification of voluntary agencies and intergovernmental organizations may also be added.

(2) *Disposal of containers.* Cooperating sponsors may dispose of containers, other than containers

provided by carriers, in which commodities are received in countries having approved Title II programs, by sale or exchange, or distribute the containers free of charge to eligible food or fiber recipients for their personal use. If the containers are to be used commercially, the cooperating sponsor must arrange for the removal or obliteration of U.S. Government markings from the containers prior to such use.

(i) *Use of funds.* In addition to funds accruing to cooperating sponsors from the sale of containers, funds may also be available from charges made in maternal, preschool, school and other child feeding programs where payment by the recipients will be encouraged on the basis of ability to pay. Funds from these sources shall be used for payment of program costs such as transportation, storage, (including the improvement of storage facilities and the construction of warehouses) handling, insect and rodent control, rebagging of damaged or infested commodities, and other program expenses specifically authorized by AID to carry out the objectives of the program for which the commodities were furnished. Funds may also be used for payment of indigenous and/or third country personnel employed by cooperating sponsors or recipient agencies in support of Title II programs. However, such funds may not be used to purchase land for sectarian purposes, to acquire or construct church buildings, or to make alterations in existing church-owned buildings. Actual out-of-pocket expenses incurred in effecting any sale of containers may be deducted from the sales proceeds.

(j) *No displacement of sales.* Except in the case of emergency or disaster situations, the donation of commodities furnished for these programs shall not result in increased availability for export by the foreign country on the same or like commodities and shall not interfere with or displace sales in the recipient country which might otherwise take place. A country may be exempt from this proviso if circumstances warrant. Missions should seek AID/W guidance on this matter.

(k) *Commodities borrowed or exchanged.* After the date of the program approval by AID/W, but before arrival at the distribution point of the commodities authorized herein, the cooperating sponsor may, with prior approval of the USAID or Diplomatic Post, borrow same or similar commodities from local sources to meet program requirements provided that: (1) Such of the commodities borrowed as are used in accordance with the terms of

the applicable Food for Peace Program Agreement will be replaced with commodities authorized herein on an equivalent value basis at the time and place that the exchange takes place as determined by mutual agreement between the cooperating sponsor and the USAID or Diplomatic Post except, that at the request of the cooperating sponsor the USAID or Diplomatic Post may determine that such replacement may be made on some other justifiable basis; (2) packaged commodities which are borrowed shall be appropriately identified in the language of the country of distribution as having been furnished by the people of the United States; and (3) suitable publicity shall be given to the exchange of commodities as provided in paragraph (g) of this section and containers for borrowed commodities shall be marked to the extent practicable in accordance with § 211.6(c).

(l) *Commodity Transfer.* After the date of program approval by AID/W, but before distribution of the commodities authorized herein by the recipient agency, the USAID or the Diplomatic Post, or the cooperating sponsor with prior approval of the USAID or Diplomatic Post, may transfer commodities between approved Title II programs to meet emergency disaster requirements or to improve efficiency of operation; for example, to meet temporary shortages due to delays in ocean transportation, or to provide for rapid distribution of stocks in danger of deterioration. Transfers may also be made to disaster organizations for use in meeting exceptional circumstances. Commodity transfers shall be made at no cost to the U.S. Government and with the concurrence of the cooperating sponsor or disaster organization concerned. The USAID or the Diplomatic Post may, however, provide funds to pay the costs of transfers to meet extraordinary relief requirements in which case AID/W shall be advised promptly of the details of the transfer. Commodities transferred as described above shall not be replaced by the U.S. Government unless AID/W authorizes such replacement.

(m) *Disposal of excessive stock of commodities.* If commodities are on hand which cannot be utilized in accordance with the applicable Food for Peace Program Agreement, the cooperating sponsor shall promptly advise USAID or the Diplomatic Post of the quantities, location, and condition of such commodities, and, where possible shall propose an alternate use of the excess stocks, USAID or Diplomatic Post shall determine the most

appropriate use of the excess stocks, and with prior AID/W concurrence, shall issue instructions for disposition. Transportation costs and other charges attributable to transferring commodities from one program to another within the country shall be the responsibility of the cooperating sponsor, except that in case of disaster or emergency, AID/W may authorize the use of disaster or emergency funds to pay for the costs of such transfers.

§ 211.6 Processing, repackaging, and labeling commodities.

(a) *Commercial processing and repackaging.* Cooperating sponsors may arrange for processing commodities into different end products and for packaging or repackaging commodities prior to distribution. When commercial facilities are used for processing, packaging or repackaging, cooperating sponsors shall enter into written agreements for such services. Except in the case of commodities and/or containers provided to foreign governments for sale under section 206 of the Act, the agreements must have the prior approval of USAID or Diplomatic Post in the country of distribution. Copies of the executed agreements shall be provided to the USAID or Diplomatic Post. Agreements for such services shall provide as a minimum that:

(1) No part of the commodities delivered to the processing, packaging, or repackaging company shall be used to defray processing, packaging, repackaging, or other costs, except as provided in paragraph (a)(2) of this section.

(2) When the milling of grain is authorized in the cooperating country, the United States will not pay any part of the processing costs, directly or indirectly, except that with the prior approval of AID/W, the value of the offal may be used to offset such part of the processing costs as it may cover.

(3) The party providing such services shall:

(i) Fully account to the cooperating sponsor for all commodities delivered to the processor's possession and shall maintain adequate records and submit periodic reports pertaining to the performance to the agreement;

(ii) Be liable for the value of all commodities not accounted for as provided in § 211.9(g);

(iii) Return or dispose of the containers in which the commodity is received from the cooperating sponsor according to instructions from the cooperating sponsor; and

(iv) Plainly label cartons, sacks, or other containers containing the end

product in accordance with paragraph (c) of this section.

(b) *Use of cooperating sponsor facilities.* When cooperating sponsors utilize their own facilities to process, package, or repackage commodities into different end products, and when such products are distributed for consumption off the premises of the cooperating sponsor, the cooperating sponsor shall plainly label the containers as provided in paragraph (c) of this section, and banners, posters, or similar media which shall contain information similar to that prescribed in paragraph (c) of this section, shall be displayed at the distribution center. Recipients' individual identification cards shall to the maximum extent practicable be imprinted to contain such information.

(c) *Labeling.* If prior to distribution the cooperating sponsor arranges for packaging or repackaging donated commodities the cartons, sacks, or other containers in which the commodities are packed shall be plainly labeled with the AID emblem, in the language of the country in which the commodities are to be distributed with the following information:

(1) Name of commodity;

(2) Furnished by the people of the United States of America; and

(3) Not to be sold or exchanged (where applicable). Emblems or other identification of voluntary agencies and intergovernmental organizations may also be added.

(d) *Where commodity containers are not used.* When the usual practice in a country is not to enclose the end product in a container, wrapper, sack, etc., the cooperating sponsor shall, to the extent practicable, display banners, posters, or other media, and imprint on individual recipient identification cards information similar to that prescribed in paragraph (c) of this section.

§ 211.7 Arrangements for entry and handling in foreign country.

(a) *Costs at discharge ports.* Except as otherwise agreed upon by AID/W and provided in the applicable shipping contract or in paragraph (d) and (e) of this section, the cooperating sponsor shall be responsible for all costs, other than those assessed by the delivering carrier either in accordance with its applicable tariff for delivery to the discharge port or in accordance with the applicable charter or booking contract. The cooperating sponsor shall be responsible for all costs for (1) distributing the commodity as provided in the Food for Peace Program Agreement to end users, and (2) for

demurrage, detention, and overtime, and (3) for obtaining independent discharge survey reports as provided in § 211.9. The cooperating sponsor shall also be responsible for wharfage, taxes, dues, and port charges assessed against the cargo whenever assessed and collected by local authorities from the consignee, and for lighterage (when not a custom of the port), and lightening costs when assessed as a charge separate from the freight rate.

(b) *Duty, taxes, and consular invoices.* Commodities shall be admitted duty free and exempt from all taxes. Consular invoices shall not be required unless specific provision is made in the Food for Peace Program Agreement. If required, they shall be issued without cost to the cooperating sponsor or to the Government of the United States.

(c) *Storage facilities and transportation in foreign countries.* Cooperating sponsors shall make all necessary arrangements for receiving the commodities and assume full responsibility for storage and maintenance of commodities from time of delivery at port of entry abroad or, when authorized, at other designated points of entry abroad agreed upon between the cooperating sponsor and AID. Before recommending approval of a program to AID/W, USAID, or Diplomatic Post shall obtain from the cooperating sponsor, assurance that provision has been made for internal transportation, and for storage and handling which are adequate by local commercial standards. The cooperating sponsor shall be responsible for the maintenance of commodities in such manner as to assure distribution of the commodities in good condition to recipient agencies or eligible recipients.

(d) *Inland transportation in intermediate countries.* In the case of landlocked countries, transportation in the intermediate country to a designated inland point of entry in the recipient country shall be arranged by the cooperating sponsor unless otherwise provided in the Food for Peace Program Agreement or other program document. Voluntary agencies and intergovernmental organizations shall handle claims arising from loss or damage in the intermediate country, in accordance with § 211.9(e). Other cooperating sponsors shall assign any rights that they may have to any claims that arise in the intermediate country to USAID which shall pursue and retain the proceeds of such claims.

(e)(1) *Authorization for Reimbursement of Costs.* If, because of packaging damage, it is determined by a voluntary agency or intergovernmental

organization that commodities must be repackaged to ensure that the commodities arrive at the distribution point in a wholesome condition, voluntary agencies and intergovernmental organizations may incur expenses for such repackaging up to \$500.00 and such costs will be reimbursed to the voluntary agency or intergovernmental organization by CCC. If costs will exceed \$500.00 the authority to repackage and incur the costs must be approved by the USAID or Diplomatic Post in advance of repackaging unless such prior approval is specifically waived in writing by the USAID or Diplomatic Post.

(2) *Method of Reimbursement.* (i) *Repackaging Required Because of Damage Occurring Prior to or During Discharge from the Ocean Carrier.* Costs of such reconstitution or repackaging should be included, as a separate item in claims filed against the ocean carrier (see 211.9(c)). Full reimbursement of such costs up to \$500.00 will be made by CCC, Kansas City Commodity Office, upon receipt of invoices or other documents to support such costs. For amounts expended in excess of \$500.00, reimbursement will be made upon receipt of supporting invoices or other documents establishing the costs of repackaging and showing the prior approval of the USAID or Diplomatic Post to incur the costs (unless approval waived, see § 211.7(e)(1) of this chapter).

(ii) *Repackaging Required Because of Damage Caused After Discharge of the Cargo from the Ocean Carrier.* Costs of such repackaging will be reimbursed to the agency or organization by CCC (USDA-ASCS Financial Management Division, 14th & Independence Avenue, Washington, D.C. 20250) upon receipt of documentation as set forth in § 211.7(e)(2) of this chapter.

§ 211.8 Disposition of commodities unfit for authorized use.

(a) *Prior to delivery to cooperating sponsor at discharge port or point of entry.* If the commodity is damaged prior to delivery to the cooperating sponsor (other than a voluntary agency or an intergovernmental organization) at discharge port or point of entry overseas, the USAID or Diplomatic Post shall immediately arrange for inspection by a public health official or other competent authority. If the commodity is determined to be unfit for human consumption, the USAID or Diplomatic Post shall dispose of it in accordance with the priority set forth in paragraph (b) of this action. Expenses incidental to the handling and disposition of the

damaged commodity shall be paid by USAID or the Diplomatic Post from the sales proceeds, from CCC Account No. 20 FT 401 or from special Title II, Pub. L. 480 Agricultural Commodity Account. The net proceeds of sales shall be deposited with the U.S. Disbursing Officer American Embassy, for the credit of CCC Account No. 20 FT 401.

(b) *After delivery to cooperating sponsor.* If after arrival in a foreign country it appears that the commodity, or any part thereof, may be unfit for the use authorized in the Food for Peace Program Agreement, the cooperating sponsor shall immediately arrange for inspection of the commodity by a public health official or other competent authority approved by USAID or the Diplomatic Post. If no competent local authority is available, the USAID or Diplomatic Post may determine whether the commodities are unfit for human consumption, and if so may direct disposal in accordance with paragraphs (b) (1) through (4) of this section. The cooperating sponsor shall arrange for the recovery for authorized use of that part designated during the inspection as suitable for program use. If, after inspection, the commodity (or any part thereof) is determined to be unfit for authorized use the cooperating sponsor shall notify USAID or the Diplomatic Post of the circumstances pertaining to the loss or damage as prescribed in § 211.9(f). With the concurrence of USAID or the Diplomatic Post, the commodity determined to be unfit for authorized use shall be disposed of in the following order of priority:

(1) By transfer to an approved Food for Peace Program for use as livestock feed. AID/W shall be advised promptly of any such transfer so that shipments from the United States to the livestock feeding program can be reduced by an equivalent amount:

(2) Sale for the most appropriate use, i.e., animal feed, fertilizer, or industrial use, at the highest obtainable price. When the commodity is sold all U.S. Government markings shall be obliterated:

(3) By donation to a governmental or charitable organization for use as animal feed or for other nonfood use: and

(4) If the commodity is unfit for any use or if disposal in accordance with subparagraph (b) (1), (2), or (3) of this section is not possible, the commodity shall be destroyed under the observation of a representative of USAID or Diplomatic Post, if practicable, in such manner as to prevent its use for any purpose. Expenses incidental to the handling and

disposition of the damaged commodity shall be paid by the cooperating sponsor unless it is determined by the USAID or the Diplomatic Post that the damage could not have been prevented by the proper exercise of the cooperating sponsor's responsibility under the terms of the Food for Peace Program Agreement. Actual expenses incurred in effecting any sale may be deducted from the sales proceeds and the net proceeds shall be deposited with the U.S. Disbursing Officer, American Embassy, with instructions to credit the deposit to CCC Account No. 20 FT 401. The cooperating sponsor shall promptly furnish USAID or the Diplomatic Post a written report of all circumstances relating to the loss and damage and shall include in this report, or a supplemental report, a certification by a public health official or other competent authority of the exact quantity of the damaged commodity disposed of because it was determined to be unfit for human consumption.

§ 211.9 Liability for loss and damage or improper distribution of commodities.

(a) *Fault cooperating sponsor prior to loading on ocean vessel.* If a voluntary agency or intergovernmental organization books cargo for ocean transportation and is unable to have a vessel at the U.S. port of export for loading in accordance with the agreed shipping schedule, the voluntary agencies and intergovernmental organizations shall immediately notify the USDA. The USDA will determine whether the commodity shall be (1) moved to another available outlet; (2) stored at the port for delivery to the voluntary agencies or intergovernmental organization until a vessel is available for loading; or (3) disposed of as the USDA may deem proper. When additional expenses are incurred by CCC as a result of a failure of the voluntary agency or intergovernmental organization, or their agent; (4) to meet the agreed shipping schedule, or (5) to make necessary arrangements to accept commodities at the points of delivery designated by CCC, and it is determined by CCC that the expenses were incurred because of the fault or negligence of the voluntary agency or intergovernmental organization, or their agents, the voluntary agency or intergovernmental organization shall reimburse CCC for such expenses or take such action as directed by CCC.

(b) *Fault of others prior to loading on ocean vessel.* Upon the happening of any event creating any rights against a warehouseman, carrier, or other person for the loss of or damage to a

commodity occurring between the time title is transferred to a voluntary agency or intergovernmental organization and the time the commodity is loaded on board vessel at designated port of export, the voluntary agencies or intergovernmental organizations shall immediately notify CCC and promptly assign to CCC any rights to claims which may accrue to them as a result of such loss or damage and shall promptly forward to CCC all documents pertaining thereto. CCC shall have the right to initiate and prosecute, and retain the proceeds of all claims for such loss or damage.

(c) Ocean carrier loss and damage—

(1) *Survey and outturn reports.* (i) Cooperating sponsors shall arrange for an independent cargo surveyor to attend the discharge of the cargo and to count or weigh the cargo and examine its condition, unless USAID or the Diplomatic Post determines that such examination is not feasible, or if CCC has made other provisions for such examinations and reports. The surveyor shall prepare a report of his findings showing the quantity and condition of the commodities discharged. The report shall also show the probable cause of any damage noted, and set forth the time and place when the examination was made. If practicable, the examination of the cargo shall be conducted jointly by the surveyor, the consignee, and the ocean carrier, and the survey report shall be signed by all parties. Customs receipts, port authority reports, shortlanding certificates, cargo boat notes, stevedore's tallies, etc., where applicable, shall be obtained and furnished with the report of the surveyor. The cooperating sponsor shall obtain a certification by public health official or similar competent authority as to (a) the condition of the commodity in any case where a damaged commodity appears to be unfit for its intended use; and (b) a certificate of disposition in the event the commodity is determined to be unfit for its intended use. Such certificates shall be obtained as soon as possible after discharge of the cargo. In any case where the cooperating sponsor can provide a narrative chronology or other commentary to assist in the adjudication of ocean transportation claims, such information should be forwarded. Cooperating sponsors shall prepare such a statement in any case where the loss is estimated to be in excess of \$5,000.00. All documentation shall be in English or supported by an English translation and shall be forwarded as set forth in paragraph (c)(1) (iii) and (iv) of this section. The cooperating sponsor may, at his option,

also engage the independent surveyor to supervise clearance and delivery of the cargo from customs or port areas to the cooperating sponsor or its agent and to issue delivery survey reports thereon.

(ii) In the event of cargo loss and damage, the cooperating sponsor shall provide the names and addresses of individuals who were present at the time of discharge and during survey and can verify the quantity lost or damaged. In the case of bulk grain shipments, the cooperating sponsor shall obtain the services of an independent surveyor to (a) observe the discharge of the cargo, (b) report on discharging techniques and furnish information as to whether cargo was carefully discharged in accordance with the customs of the port, (c) estimate the quantity of cargo, if any, loss during discharge through carrier negligence, (d) advise quality of sweepings, (e) obtain copies of port and/or vessel records, if possible, showing quantity discharged, (f) provide immediate notification to cooperating sponsor if additional services are necessary to protect cargo interests or if surveyor has reason to believe that the correct quantity was not discharged. The cooperating sponsor, in the case of damage to bulk grain shipments, shall obtain and provide the same documentation regarding quality of cargo as set forth in § 211.8(a) of this chapter and paragraph (c)(1)(i) of this section. In the case of shipments arriving in container vans, cooperating sponsors shall require the independent surveyor to list the container van numbers and seal numbers shown on the container vans, and indicate whether the seals were intact at the time the container vans were opened, and whether the container vans were in any way damaged.

(iii) Cooperating Sponsors shall send copies of all reports and documents pertaining to the discharge of commodities to USDA.

(iv) CCC will reimburse the voluntary agencies and intergovernmental organizations for the costs incurred by them in obtaining the services of an independent surveyor to conduct examinations of the cargo and render the report set forth above. Reimbursement will be made when the surveyor's invoice or other documents that establish the survey cost are furnished to CCC. However, CCC will not reimburse voluntary agencies or intergovernmental organizations for the costs of only a delivery survey, in the absence of a discharge survey, or for any other survey not taken contemporaneously with the discharge of the vessel, unless such deviation from the documentation requirements of

§ 211.9(c)(1) is justified to the satisfaction of CCC.

(2) *Claims against ocean carriers.* (i) Irrespective of transfer of title to the commodities, CCC shall have the right to initiate and prosecute, and retain the proceeds of, all claims against ocean carriers for cargo loss and damage or cargos for which CCC contracts for ocean transportation.

(ii)(a) Unless otherwise provided in the Food for Peace Program Agreement or other program document, voluntary agencies and intergovernmental organizations shall file notice of any cargo loss and damage with the carrier immediately upon discovery of any such loss and damage and shall promptly initiate claims against the ocean carriers for cargo loss and damage, and shall take all necessary action to obtain restitution for losses within any applicable periods of limitations and shall transmit to CCC copies of all such claims. However, the voluntary agencies or intergovernmental organizations need not file a claim when the cargo loss is not in excess of \$25, or in any case when the loss is in excess of \$25, but not in excess of \$100 and it is determined by the voluntary agencies or intergovernmental organizations that the cost of filing and collecting the claim will exceed the amount of the claim. The voluntary agencies and intergovernmental organizations shall transmit to CCC copies of all claims filed with the ocean carriers for cargo loss and damage, as well as information and/or documentation on shipments when no claim is to be filed. When General Average has been declared, no action will be taken by the voluntary agencies of intergovernmental organizations to file or collect claims for loss or damage to commodities. (See paragraph (c)(2)(iii) of this section.)

(b) *Determination of value.* When payment is made for commodities misused, lost or damaged, the value shall be determined on the basis of the domestic market price at the time and place the misuse, loss or damage occurred, or, in case it is not feasible to obtain or determine such market price, the f.o.b. or f.a.s. commercial export price, of the commodity at the time and place of export, plus ocean freight charges and other costs incurred by the Government of the United States in making delivery to the cooperating sponsor. When the value is determined on a cost basis, the voluntary agencies or intergovernmental organizations may add to the value any provable costs they have incurred prior to delivery by the ocean carrier. In preparing the claim statement, these costs shall be clearly

segregated from costs incurred by the Government of the United States. With respect to claims other than ocean carrier loss and/or damage claims, at the request of the cooperating sponsor and/or upon the recommendation of the USAID or diplomatic Post, AID W may determine that such value may be determined on some other justifiable basis. When replacements are made, the value of commodities misused, lost or damaged, shall be their value at the time and place the misuse, loss, or damage occurred and the value of the replacement commodities shall be their value at the time and place replacement is made.

(c) Amounts collected by voluntary agencies and intergovernmental organizations on claims against ocean carriers not in excess of \$100 may be retained by the voluntary agencies or intergovernmental organizations.

On claims involving loss or damage having a value in excess of \$100 the voluntary agencies or intergovernmental organizations may retain from collections received by them, the larger of (1) the amount of \$100 plus 10 percent of the difference between \$100 and the total amount collected on the claim, up to a maximum of \$350, or (2) actual administrative expenses incurred in collection the claim; provided retention of such expenses is approved by CCC. Collection costs shall not be deemed to include attorneys fees, fees of collection agencies, and the like. In no event will collection costs in excess of the amount collected on the claim be paid by CCC. The voluntary agencies or intergovernmental organizations may also retain from claim recoveries remaining after allowable deductions for administrative expenses of collection, the amount of any special charges, such as handling, packing, and insurance costs, which the voluntary agency or intergovernmental organization has incurred on the lost or damaged commodity and which are included in the claim and paid by the liable party.

(d) The voluntary agencies and intergovernmental organizations may redetermine claims on the basis of additional documentation or information, not considered when the claims were originally filed when such documentation or information clearly changes the ocean carriers liability. Approval of such changes by CCC is not required regardless of amount. However copies of redetermined claims and supporting documentation or information shall be furnished to CCC.

(e) Voluntary agencies of intergovernmental organizations may negotiate compromise settlements of

claims regardless of the amount thereof, except that proposed compromise settlements of claims having a value in excess of \$5,000 shall not be accepted until such action has been approved in writing, by CCC. When a claim is compromised, the voluntary agency or intergovernmental organization may retain from the amount collected, the amounts authorized in (c)(2)(ii)(c) of this section and in addition, an amount representing the percentage of the special charges described in (c)(2)(ii)(c) of this section as the compromised amount is to the full amount of the claim. When a claim is not in excess of \$600, the voluntary agencies or intergovernmental organizations may terminate collection activity on the claim according to the standards set forth in 4 CFR 104.3 (1972). Approval of such termination by CCC is not required but the voluntary agencies or intergovernmental organizations shall notify CCC when collection activity on a claim is terminated.

(f) All amounts collected in excess of the amounts authorized herein to be retained shall be remitted to CCC. For the purpose of determining the amount to be retained by the voluntary agencies or intergovernmental organizations from the proceeds of claims filed against ocean carriers, the word "claim" shall refer to the loss and damage to commodities which are shipped on the same voyage of the same vessel to the same port destination, irrespective of the kinds of commodities shipped or the number of different bills of lading issued by the carrier. If a voluntary agency or intergovernmental organization is unable to effect collection of a claim or negotiate an acceptable compromise settlement within the applicable period of limitation or any extension thereof granted in writing by the liable party or parties, the rights of the voluntary agencies or intergovernmental organizations to the claim shall be assigned to CCC in sufficient time to permit the filing of legal action prior to the expiration of the period of limitation or any extension thereof. Voluntary agencies or intergovernmental organizations shall promptly assign their claim rights to CCC upon request. In the event CCC effects collection or other settlement of the claim after the rights of the voluntary agency or intergovernmental organization to the claim have been assigned to CCC, CCC shall, except as shown below, pay to the voluntary agency or intergovernmental organization the amount the agency or organization would have been entitled to retain had they collected the same amount. However, the additional 10

percent on amounts collected in excess of \$100 will be payable only if CCC determines that reasonable efforts were made to collect the claim prior to the assignment, or if payment is deemed to be commensurate with the extra efforts exerted in further documenting claims. Further, if CCC determines that the documentation requirements of § 211.9(c)(1) have not been fulfilled and the lack of such documentation has not been justified to the satisfaction of CCC, CCC reserves the right to deny payment of all allowances to the voluntary agency.

(g) When voluntary agencies or intergovernmental organizations fail to file claims, or permit claims to become time-barred, or fail to provide for the right of CCC to assert such claims, as provided in this § 211.9 and it is determined by CCC that such failure was due to the fault or negligence of the voluntary agency or intergovernmental organization, the agency or organization shall be liable to the United States for the cost and freight (C&F) value of the commodities lost to the program.

(iii) If a cargo loss has been incurred on a voluntary agency or intergovernmental organization shipment, and general average has been declared, the voluntary agency or intergovernmental organization shall furnish to the Chief Claims and Collections Division, Kansas City ASCS, Commodity Office, P.O. Box 8377, Shawnee Mission, Kansas, ZIP 66208, with a duplicate copy to AID/W-PDC/FFP/POD, (a) copies of booking confirmations and the applicable on-board bill(s) of lading, (b) the related outturn or survey report(s), (c) evidence showing the amount of ocean transportation charges paid to the carrier(s), and (d) an assignment to CCC of the cooperating sponsor's rights to the claim(s) for such loss.

(d) *Fault of cooperating sponsor in country of distribution.* If the cooperating sponsor improperly distributes a commodity or knowingly permits it to be used for a purpose not permitted under the Food for Peace Program Agreement or this part, or causes loss or damage to a commodity through any act or omission or fails to provide proper storage, care, and handling, the cooperating sponsor shall pay to the United States the value of the commodities lost, damaged, or misused (or may, with prior USAID approval, replace such commodities with similar commodities of equal value), unless it is determined by AID that such improper distribution or use, or such loss or damage, could not have been prevented by proper exercise of the cooperating

sponsor's responsibility under the terms of the agreement. Normal commercial practices in the country of distribution shall be considered in determining that there was a proper exercise of the cooperating sponsor's responsibility. Payment by the cooperating sponsor shall be made in accordance with paragraph (b) of this section.

(e) *Fault of others in country of distribution and in intermediate country.* (1) In addition to survey and/or outturn reports to determine ocean carrier loss and damage, the cooperating sponsor shall, in the case of land-locked countries, arrange for an independent survey at the point of entry into the country and to make a report as set forth in § 211.9(c)(1). CCC will reimburse the cooperating sponsor for the costs of survey as set forth in § 211.9(c)(1)(iv).

(2) Upon the happening of any event creating any rights against a warehouseman, carrier or other person for the loss of, damage to, or misuse of any commodity, the cooperating sponsor shall make every reasonable effort to pursue collection of claims against the liable party or parties for the value of the commodity lost, damaged, or misused and furnish a copy of the claim and related documents to USAID or Diplomatic Post. Cooperating sponsors who fail to file or pursue such claims shall be liable to AID for the value of the commodities lost, damaged, or misused: *Provided, however,* That the cooperating sponsor may elect not to file a claim if the loss is less than \$300 and such action is not detrimental to the program. Cooperating sponsors may retain \$100 of any amount collected on a claim. In addition, cooperating sponsors may, with the written approval of the USAID or Diplomatic Post, retain special costs such as legal fees that they have incurred in the collection of a claim. Any proposed settlement for less than the full amount of the claim must be approved by the USAID or Diplomatic Post prior to acceptance. When the cooperating sponsor has exhausted all reasonable attempts to collect a claim, it shall request the USAID or Diplomatic Post to provide further instructions.

(f) *Reporting losses to USAID or Diplomatic Post.* The cooperating sponsor shall promptly notify USAID or the Diplomatic Post in writing of the circumstances pertaining to any loss, damage, or misuse occurring within the country of distribution or intermediate country and shall include information as to the name of the responsible party; kind and quantities of commodities; size, and type of containers; the time and place of misuse, loss, or damage; the

current location of the commodity; and the Food for Peace Program Agreement number, the CCC contract numbers, if known, or if unknown, other identifying numbers printed on the commodity containers; the action taken by the cooperating sponsor with respect to recovery or disposal; and the estimated value of the commodity. If any of the above information is not available, an explanation of its unavailability shall be made by the cooperating sponsor. Proceeds from sale and the disposition of the proceeds if any, should also be reported.

(g) *Handling claims proceeds.* Claims against ocean carriers shall be collected in U.S. dollars (or in currency in which freight is paid, or a pro rata share of each) and shall be remitted (less amounts authorized to be retained) by voluntary agencies and intergovernmental organizations to CCC. Claims against voluntary agencies and intergovernmental organizations shall be paid to CCC or AID/W in U.S. dollars. Amounts paid by other cooperating sponsors and third parties in the country of distribution shall be deposited with the U.S. Disbursing Officer, American Embassy, preferably, in U.S. dollars with instructions to credit the deposit to CCC Account No. 12X4336, or in local currency at the official exchange rate applicable to dollar imports at the time of deposit with instructions to credit the deposit to Treasury sales account 20FT401.

(h) *General average.* CCC shall (1) be responsible for settling general average and marine salvage claims, (2) retain the authority to make or authorize any disposition of commodities which have not commenced ocean transit or of which the ocean transit is interrupted, and receive and retain any monetary proceeds resulting from such disposition, (3) in the event of a declaration of general average, initiate and prosecute, and retain all proceeds of, cargo loss and damage claims against ocean carriers and (4) receive and retain any allowance in general average. CCC will pay any general average or marine salvage claims determined to be due.

§ 211.10 Records and reporting requirements of cooperating sponsor.

(a) *Records.* Cooperating sponsors shall maintain records and documents in a manner which will accurately reflect all transactions pertaining to the receipt, storage, distribution, sale and inspection of commodities. This shall include a periodic summary report and records of receipt and disbursement of any funds accruing from the operation of the

program. Such records shall be retained for a period of 3 years from the close of the U.S. fiscal year to which they pertain.

(b) *Reports.* Cooperating sponsors shall submit reports to the USAID or Diplomatic Post, at such times and on such forms as prescribed by AID. The following is a list of the principal types of reports that are to be submitted:

(1) Periodic summary reports showing receipt, distribution, and inventory of commodities and proposed schedules of shipments or call forwards.

(2) In the case of Title II sales agreements under section 206 of the Act, the foreign government is directly responsible for reporting on programs involving the use of funds for purposes specified in the agreement.

(3) Reports relating to progress and problems in the implementation and operation of the program, and inspection reports, as may be required from time to time by AID/W, or as may be agreed upon between the USAID or Diplomatic Post and the cooperating sponsor and approved by AID/W.

(4) Reports of all comprehensive internal reviews prepared in accordance with § 211.5(c) shall be submitted to the USAID or Diplomatic Post for review as soon as completed and in sufficient detail to enable the USAID or Diplomatic Post to assess and to make recommendations as to the ability of the cooperating sponsors to effectively plan, manage, control and evaluate the Food for Peace programs under their administration.

(5) Emergency programs. At the time that an emergency program under Pub. L. 480, Title II is initiated, either on a government-to-government basis or through an intergovernmental organization or a voluntary agency, the Mission should (i) make a determination regarding the ability of the cooperating sponsor to perform the record-keeping required by § 211.10, and (ii) in those instances in which those specific record-keeping requirements cannot be followed, due to emergency circumstances, specify exactly which essential information will be recorded in order to account fully for Title II commodities.

(c) *Inspection and audit.* Cooperating sponsors shall cooperate with and give reasonable assistance to U.S. Government representatives to enable them at any reasonable time to examine activities of the cooperating sponsors, processors, or others, pertaining to the receipt, distribution, processing, repackaging, and use of commodities by recipients; to inspect commodities in storage, or the facilities used in the

handling or storage of commodities; to inspect and audit records, including financial records and reports pertaining to storage, transportation, processing, repackaging, distribution and use of commodities; the deposit of and use of any Title II generated local currencies; to review the overall effectiveness of the program as it relates to the objectives set forth in the Food for Peace Program Agreement; and to examine or audit the procedure and methods used in carrying out the requirements of this Part. Inspections and audits of Title II emergency programs will take into account the circumstances under which such programs are carried out.

§ 211.11 Termination of program.

All or any part of the assistance provided under the program, including commodities in transit, may be terminated by AID at its discretion if the cooperating sponsor fails to comply with the provisions of the Food for Peace Program Agreement, this part, or if it is determined by AID that the continuation of such assistance is no longer necessary or desirable. Under such circumstances title to commodities which have been transferred to the cooperating sponsor shall at the written request of USAID, the Diplomatic Post, or AID/W, be retransferred to the U.S. Government by the cooperating sponsor. Any excess commodities on hand at the time the program is terminated shall be disposed of in accordance with § 211.5(1). If it is determined that any commodity to be supplied under the Food for Peace Program Agreement is no longer available for Food for Peace Programs, such authorization shall terminate with respect to any commodities which, as of the date of such determination have not been delivered f.o.b. or f.a.s. vessel, provided every effort will be made to give adequate advance notice to protect cooperating sponsors against unnecessarily booking vessels.

§ 211.12 Waiver and amendment authority.

AID may waive, withdraw, or amend, at any time, any or all of the provisions of this Part 211 if such provision is not statutory and if AID determines it is in the best interest of the U.S. Government to do so. Any cooperating sponsor which has failed to comply with the provisions of this part or any instructions or procedures issued in connection herewith, or any agreements entered into pursuant hereto may at the discretion of AID be suspended or disqualified from further participation in any distribution program. Reinstatement

may be made at the option of AID. Disqualification shall not prevent AID from taking other action through other available means when considered necessary.

Dated: May 31, 1979.

Robert H. Nooter,
Acting Administrator.

[FR Doc. 79-18317 Filed 6-12-79; 8:45 am]
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1979
Floodplain
Management

Wednesday
June 13, 1979

Part IV

**Department of
Housing and Urban
Development**

**Federal Disaster Assistance
Administration**

Floodplain Management

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[24 CFR Part 2205]

[Docket No. R-79-675]

Federal Disaster Assistance; Floodplain Management

AGENCY: Federal Disaster Assistance Administration, Department of Housing and Urban Development.

ACTION: Proposed Rule.

SUMMARY: This rule adds a new subpart to the Federal Disaster Assistance Regulations in order to implement Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands). Policy and procedures are being established for carrying out disaster assistance in accordance with these Executive Orders.

DATE: Comments due: August 13, 1979.

ADDRESS: Interested parties and government agencies are encouraged to submit written comments to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Charles B. Stuart, Office of Public Assistance, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, Telephone (202) 634-7835.

SUPPLEMENTARY INFORMATION: On May 24, 1977, Executive Order 11988 was issued for the following purposes: (1) To avoid to the extent possible the long- and short-term adverse impacts associated with the occupancy and modification of floodplains; and (2) to avoid direct or indirect support of floodplain development wherever there is a practicable alternative. This Executive Order applies to Federal agencies engaged in 1) acquiring, managing and disposing of Federal lands and facilities; 2) providing federally undertaken, financed or assisted construction and improvements; and 3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities. The United States Water Resources Council (WRC) published guidelines for implementing E.O. 11988 in the Federal Register on

February 10, 1978 at 43 FR 6030. These regulations follow closely the WRC guidelines in setting forth policy and procedures for floodplain management relating to disaster assistance granted under the Disaster Relief Act of 1974, Pub. L. 93-288 referred to as "the Act" in this proposed subpart. The main emphasis of these regulations is on compliance with Executive Order 11988, Floodplain Management. However, in cases where Executive Order 11990—Protection of Wetlands would apply, these regulations also set forth policy and procedures to implement that Executive Order. Further implementation of Executive Order 11990, as appropriate, will be included in revisions to other subparts of these Disaster Assistance Regulations, 24 CFR 2205.

Specific details of procedures will be given in revisions to internal FDAA guidance and handbooks such as the Environmental Review Handbook.

This subpart presents the purpose and objective of the floodplain management regulations, specific responsibilities of individuals and organizations involved with disaster assistance, basic policies of FDAA which will guide an agency's actions, a description of different categories of actions with respect to application of the requirements of the orders, and finally, the step-by-step procedures for carrying out the requirements of the orders.

The decision-making process as described in the WRC guidelines, is applied to selected categories of FDAA actions in different ways. The categories of actions are: 1. Exempt; 2. Inapplicable; and, 3. Applicable. Actions which are exempt from all provisions of the orders are those which are essential to save lives and protect property and public health and safety, performed pursuant to Sections 305 and 306 of Pub. L. 93-288. This exemption is contained in Section 8 of E.O. 11988 and Section 9 of E.O. 11990. However, to the extent practicable, considering the urgency of the situation, such emergency work shall be consistent with the spirit and intent of these two Executive Orders.

Inapplicable actions are those which the Administrator, FDAA, has determined do not require implementation of the full decision-making process as set forth in this subpart. There are two subdivisions under this category. One is those types of actions which typically do not create adverse effects on or incompatible development of floodplains or wetlands. This determination included an analysis of potential long- and short-term impacts associated with occupancy

or modification of floodplains, potential support of floodplain development, potential harm to lives and property or to natural and beneficial floodplain values, and potential cumulative impacts of multiple actions over time. These actions will not require any further implementation of the procedures set forth in this subpart.

The second subdivision consists of those inapplicable actions for which generally no practicable alternative actions or sites are available or identifiable. The determinations by the FDAA Administrator in this regard included consideration of factors such as environment, cost and technology. Therefore, when a Federal official undertakes one of these inapplicable actions, there is no requirement to implement the full eight-step decision-making process in accordance with Sec. 2205.506. Nevertheless, the Administrator has determined that Federal officials acting under these regulations shall take appropriate measures to minimize potential harm to or within the floodplain and to restore and preserve beneficial floodplain values.

There are six categories of inapplicable actions within this subdivision. First, Sec. 418(d) authorizes the Administrator to make grants for the purpose of removing timber from privately-owned lands where that timber has been damaged by a disaster. When this work is performed on an emergency basis, time is of the essence in order to salvage the value of the timber. More importantly, if the damaged timber is located in the floodplain, there is obviously no alternative site or alternative action to accomplish the goal of removing the damaged timber. Therefore, the Administrator has determined that, where the action is designed or modified to minimize the potential risks to and within the floodplain and actions are taken to restore and preserve natural and beneficial values served by floodplains, the full eight-step review is not necessary.

Second, full decision-making procedures are not required in the case of debris removal under Sec. 403 except for non-emergency removal of debris from the floodway. Because the removal of debris caused by a disaster generally has positive impacts on the floodplain and because the debris must be removed from where it lies, the goals of the Executive Order will not be served by the full decision-making process.

Third, Sec. 408 authorizes Federal contributions to states for the purpose of making grants to individuals and

families for specified serious needs and necessary expenses. Among these, medical and dental expenses, replacement of personal property, transportation and funeral expenses bear virtually no relationship to the goals of the Executive Order. Therefore, as to these items, the Administrator has determined that full review procedures are not required. Grants may also be used to repair, replace or rebuild primary residences. Because the maximum Federal contributions to any family or individual under this program is \$3,750, FDAA's ability to achieve floodplain management goals is limited. The Federal contribution could pay for most or all of the cost of purchasing a mobile home for permanent housing. For this action, the full decision-making process is applicable. However, if the family decides to buy a new permanent structure other than a mobile home, or if the family decides to replace its previous home, the Administrator assumes that the Federal contribution under the individual and family grant program will be a small part of the total cost of the new residence. If another Federal agency has made available additional funds to assist the family in buying a new residence, that Federal agency should assume the primary role in carrying out Executive Order 11988. If the family has determined that it will make minor repairs to its existing structure, then there is no practicable alternative but for the family to carry out that activity where its house is located, even if that is in the floodplain. Therefore, the Administrator has determined that only in the case of the purchase of a mobile home will the eight-step decision-making process be applied to individual and family grants.

Fourth, Sec. 419 authorizes in-lieu contributions when the total project application by a state or local government is less than \$25,000. In enacting this section, Congress intended to simplify the procedures for a majority of applicants. Given the small amount of money in question (typically, one project application under Sec. 419 will be comprised of three or more separate projects which cumulatively amount to less than \$25,000), and the legislative preference for flexibility, limited paperwork, and local control of their own projects, the Administrator has determined that the full decision-making process is inapplicable to the project applications under Sec. 419. An exception to this determination is when the Federal funds are used for the construction of new facilities or structures within the floodplain. When this happens, the Administrator assumes

that there may be some practicable alternative sites or actions which would better serve the goal of sound floodplain management.

Fifth, FDAA can replace building contents, materials and equipment in conjunction with the repair or restoration of disaster-damaged public facilities. The Administrator assumes that there will be no practicable alternatives to replacing building contents in the repaired or replaced structure. Nevertheless, as with all other items in this subdivision, FDAA will have to take action to minimize the potential flooding risk to these contents and the floodplain.

Finally, Sec. 402 authorizes FDAA to make contributions to repair, replace, reconstruct or rebuild public facilities belonging to state or local governments and certain private, non-profit facilities. The Administrator has determined that the full eight-step decision-making process is not a requirement where public facilities are being repaired except where one of the following conditions is met: (1) the cost of repairs is more than 50 percent of the reconstruction costs of the entire facility and the cost of repairs is more than \$25,000; or (2) the facility is located in the floodway or coastal high hazard area; or (3) the facility has been damaged by a prior flooding major disaster. The Administrator assumes that where a building or other facility is less than 50% damaged, it would be unreasonable to require the applicant to abandon the remaining undamaged portions of the facility in order to totally relocate the facility outside the floodplain. In most cases, the difference between the cost of relocating the facility outside the floodplain and the cost of repairing the facility in place will be substantial and will be borne by the applicant. FDAA by Sec. 402(e) of its Act may contribute up to 100% of the net cost of repairing, restoring or reconstructing or replacing any such facility on the basis of the design of such facility as it existed immediately prior to the disaster and in conformity with current applicable codes, specifications and standards.

In those rare cases where a facility is repairable even though it is more than 50% damaged, the alternative limitation in this subsection comes into effect. If the Federal contribution is less than \$25,000 the eight-step decision-making process is unnecessary. This limitation is consistent with the fifth inapplicable category, the small project grants. Furthermore, very little construction can be done for \$25,000 which would have an impact on the floodplain. This is

especially true for locations outside the floodway and for the repair of facilities which have not been damaged by previous flood disaster. Work performed under Sec. 402 may be to repair public utilities, roads, bridges and water control facilities. Such facilities, when damaged, are typically parts of much larger facilities. Further, these facilities are often functionally dependent on the floodplain. Therefore, there are rarely alternatives to doing the repair work on these facilities in the floodplain. Section 402 funds may also be contributed to States and local governments for the purpose of repairing public or private non-profit buildings. Again, even in the context of repairing disaster-damaged buildings, so little can be done with \$25,000 that such disaster damage will not present an opportunity to carry out the floodplain management goals of the Executive Order.

The third category of actions, Applicable Actions, includes all of the remaining actions performed under Pub. L. 93-288 unless otherwise determined to be exempt or inapplicable in accordance with this subpart of the regulations. These actions will require implementation of the procedures as set forth in § 2205.506 of this subpart.

The application of the Executive Order to disaster temporary housing (Sec. 404) is particularly noteworthy. The Administrator has established a list of resources in order of priority. The order of the resources reflects, in addition to floodplain management goals, program considerations such as the relative costs of alternatives, the speed of achieving the goal of temporarily housing all eligible disaster victims and various social considerations. Therefore, the ranking of temporary housing resources reflects in gross, the Administrator's determination as to the practicability of various housing alternatives. For any given resource, it is always preferable to use housing units outside the floodplain. It is important to note that existing resources are available only if they have been undamaged by the disaster. Largely to avoid dislocation of disaster victims, using resources created by making minimal repairs to existing owner-occupied homes is preferable to the use of mobile homes; use of mobile homes is also more expensive. In the placement of mobile homes the use of private sites and commercial sites are preferable to the development of group sites. Use of private sites and in particular, sites owned by the temporary housing applicants, is advantageous because they minimize the dislocation of the family, the disruption of normal

community life and the cost to the Federal Government. Commercial sites also minimize the Federal expenditure.

Therefore, group sites, even those outside the floodplain, are the least preferable sites. As to placement of mobile homes on private or commercial sites within the floodplain, the Administrator has determined that it is preferable to avoid upgrading of commercial sites in the floodplain because that would encourage continued long-term occupancy of the floodplain.

The Administrator has also made some determinations with respect to minimization. While minimization means to reduce the potential risk to the least possible extent, only practicable means need be employed. In carrying out a temporary housing program, the overriding concern is to place disaster victims in suitable housing until they can reoccupy permanent housing. Therefore, where significantly more time would be required to perform flood hazard minimization measure as to certain types of resources (i.e., existing (undamaged) resources) and minimally repaired homes need not be performed. As to mobile homes, the Administrator has determined that his designee for temporary housing must take appropriate minimization measures.

These determinations should be viewed in light of the nature of temporary housing. The program is designed to provide temporary shelter and thereby meet an emergency need while permanent accommodations are secured. Therefore, even if a victim is placed in a housing unit in the floodplain, where no better alternatives are available, that placement is still temporary. One exception to this principle is the minimal repair program. However, mini-repair is feasible only where the dwelling has sustained relatively minor damage and can be quickly repaired to habitable conditions pending permanent repairs. The owners would undoubtedly reoccupy their residence regardless of mini-repair assistance. The other exception is where a family (or individual) is placed in a mobile home which is eventually sold to them. While the Administrator has determined that there may be situations where the designee may find that minimization measures are unworkable, the rule is that the appropriate minimization measure shall be taken with regard to mobile homes which are placed as temporary housing. Also, before that unit is sold, the appropriate Federal official must complete the full eight-step process.

Interested parties and government agencies are encouraged to submit written comments, suggestions, data or arguments regarding this rulemaking to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. All submissions received on or before August 13, 1979, will be evaluated. All comments shall be available for inspection at the Office of the Rules Docket Clerk. FDAA will evaluate all such comments and experiences to date and will then prepare a Final Rule in consultation with the Federal Insurance Administration (FIA), the Water Resources Council (WRC), and the Council on Environmental Quality (CEQ). This Final Rule will then be issued after HUD departmental review and clearance.

A Finding of Inapplicability of Section 102(2)(c) of the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1 (38 FR 19182). It is the position of the signatories to the finding that this regulation in itself has no significant impact on the human environment beyond those impacts of Executive Orders 11988 and 11990.

Interested parties may inspect and obtain copies of this Finding of Inapplicability at the Office of the Rules Docket Clerk of the Department of Housing and Urban Development in Washington, DC 20410.

In compliance with Executive Orders 11988 and 11990, Title 24, Part 2205 is amended by the addition of the following Subpart N.

Subpart N—Floodplain Management

Sec.	
2205.500	General.
2205.501	Policies.
2205.502	Definitions.
2205.503	Exempt actions.
2205.504	Inapplicable actions.
2205.505	Actions requiring decision-making process.
2205.506	Decision making process.

Authority: Sec. 601, Pub. L. 93-288, 88 Stat. 163 (42 U.S.C. 5201); Executive Order 11795 as amended by Executive Order 11919; Delegation of Authority, 39 FR 28227; Executive Order 11988, 42 FR 26951, and Executive Order 11990, 42 FR 26961.

Subpart N—Floodplain Management

§ 2205.500 General.

(a) *Purpose.* The purpose of this subpart is to prescribe the policies and procedures for implementing Executive Orders 11988 and 11990 as they apply to Pub. L. 93-288 as amended. Any

conflicting provisions elsewhere in prior subparts of 24 CFR Part 2205 are suspended by this subpart.

(b) *Objective.* The objective of this subpart of the regulations is to integrate the objectives and requirements of these two Executive Orders into the policies, and procedures of the Federal Disaster Assistance Administration (FDAA) in its programs of disaster preparedness and disaster assistance under Pub. L. 93-288, as amended. The objective of Executive Order 11988 is to avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative. The objective of Executive Order 11990 is to avoid to the extent possible the long- and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative.

(c) *Scope.* This subpart covers policies, procedures, standards and criteria for applying Executive Orders 11988 and 11990 to programs administered by FDAA under the Act. Refer also to §§ 2205.503, 2205.504, and 2205.505 of this subpart. These regulations are intended for the use of Federal, State and local government officials who have specific responsibilities under the regulations and others involved with disaster relief.

(d) *Responsibilities.* Under these executive orders the following have responsibilities which are described briefly below and may be discussed in more detail elsewhere in this report.

(1) *Administrator*—The Administrator, FDAA, is responsible for assuring that all Federal assistance given under Pub. L. 93-288, as amended, and 24 CFR 2205 meets the requirements of these Executive orders.

(2) *Regional Director*—Pursuant to these regulations and the orders the Regional Director shall make determinations of applicability of these orders and shall apply them to specific actions undertaken by eligible applicants receiving Federal assistance under Pub. L. 93-288 as amended. The Regional Director is responsible for accomplishment of applicable portions of the decision-making process as specified in Section 2205.506 of these regulations. When necessary the Regional Director shall instruct the State in carrying out the requirements of these orders.

(i) In this subpart, for actions dealing with Temporary Housing Assistance

(Sec. 404) reference to the Regional Director shall mean the Administrator's designee.

(3) **State**—The Governor's Authorized Representative (GAR) shall assist applicants carrying out their responsibilities in complying with these regulations. When the State or State agency is an applicant, the State or agency shall carry out the responsibilities of an applicant.

(4) **Applicant**—In order to receive Federal assistance under Pub. L. 93-288, as amended, State or local governments and eligible private non-profit organizations must agree to assist the Regional Director in evaluating applicable actions in accordance with these regulations and particularly this subpart. However, the final responsibility for compliance with the two Executive orders and this subpart remains with the Regional Director in decision-making on any proposed action.

§ 2205.501 Policies.

(a) FDAA will provide leadership and shall take action to reduce the risk of flood loss, to restore and preserve natural and beneficial values served by wetlands and floodplains; to minimize the impact of floods on human health, safety and welfare; to restore and preserve natural and beneficial values served by floodplains; and to develop an integrated process to involve the public in the decision-making process for floodplain management in providing Federal grant or loan assistance under Pub. L. 93-288, as amended, except for emergency work under Sections 305 and 306 of the Act.

(b) FDAA shall identify flood hazards and evaluate the potential effects of any actions it may take in wetlands or inside or outside a floodplain to achieve the goals and objectives set forth by the two Executive orders, except exempt actions.

(c) FDAA shall avoid direct or indirect support of floodplain development wherever there is a practicable alternative. For actions within or affecting the floodplain FDAA shall ensure that actions are designed to minimize potential harm to or within the floodplain.

(d) FDAA will support sound floodplain management as applied to broad agency program reviews, as well as to individual project actions, from their initial planning and scoping stages through post-implementation monitoring and evaluation.

(e) FDAA will monitor its actions to assure that they are carried out in

accordance with Executive orders 11988/11990 and these regulations.

(f) FDAA will conduct an on-going analysis of consistency of its policies and programs with Executive orders 11988/11990 and these regulations.

(g) FDAA will comply fully with the requirements of the two Executive orders to give early public notice and full publicity to appropriate steps in the decision-making process set forth in this subpart.

(h) FDAA will assure that its preparedness programs and budget requests reflect consideration of flood hazards, protection of the wetlands, and floodplain management in accordance with applicable standards and the WRC guidelines.

(i) FDAA will coordinate its implementation of these two Executive orders under this subpart with the implementation of the National Environmental Policy Act and of Section 406, Pub. L. 93-288, as amended, to achieve the requirement of all these programs in the decision-making process with minimum duplication or conflict.

(j) In its contacts with other local, State and Federal agencies, FDAA will provide leadership in achieving the objectives of these two Executive orders by setting appropriate examples consistent with sound floodplain management in its actions within the base floodplain or wetlands; for all critical actions located within the 500-year floodplain which may have direct or indirect impact upon the base floodplain, or directly or indirectly support development of the floodplain. However, FDAA will not employ unworkable means to meet these objectives and FDAA procedures will not be inconsistent with the Flood Insurance Program of the Federal Insurance Administration (FIA) or "A Unified National Program for Floodplain Management" issued by the Water Resources Council.

§ 2205.502 Definitions.

As used in this subpart, the following basic definitions shall apply:

(a) **Action** means any Federal activity including: " * * (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed or assisted construction and improvement; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities." For assistance to State or local governments or to eligible private non-profit organizations, an

action shall normally include the work covered by one Damage Survey Report.

(b) **Agency** means an executive department, a government corporation, or an independent establishment. (An independent establishment is part of the executive branch which is not an executive department, military department, government corporation, or part thereof.)

(c) **Base flood** means that flood which has a one percent chance of being equalled or exceeded in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

(d) **Base floodplain** means an area subject to flooding by the base flood (also see definition of floodplain).

(e) **Channel** means a natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water.

(f) **Critical action** means any activity for which even a slight chance of flooding would be too great.

(g) **Coastal high hazard area** means the area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis.

(h) **Damage Survey Report (DSR)** means a report of damages caused by a major disaster or emergency and a description and estimate of repair work. Approved DSR's form the basis for a project application.

(i) **Facility** means any man-made or man-placed item other than a structure.

(j) **Flood or flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation or runoff of surface waters from any source.

(k) **Floodplain** means the lowland and relatively flat areas adjoining inland and coastal waters, including floodprone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year. The base floodplain shall be used to designate the 100-year floodplain (one percent chance floodplain). The critical action floodplain is defined as the 500-year floodplain (0.2 percent chance floodplain).

(l) **Floodproofing** means the modification of individual structures and facilities, their sites, and their contents to protect against failure, to keep water out or to reduce effects of water entry.

(m) *Floodway* means that portion of the floodplain which is effective in carrying flow and within which this carrying capacity must be preserved. It is that area where the flood hazard is generally highest; i.e., where water depths are velocities are the greatest.

(n) *Flood fringe* means that portion of the floodplain outside of the floodway (often referred to as "floodway fringe").

(o) *Flood Hazard Boundary Map* (FHBM) means an official map of a community, issued by the Federal Insurance Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) and related erosion areas having special hazards have been designated as Zone A, M, or E.

(p) *Flood Insurance Rate Map* (FIRM) means an official map of a community on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

(q) *Flood Insurance Study* (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

(r) *Impacts (long-term)* means changes occurring during or after an action which may take the form of delayed changes or changes resulting from the cumulative effects of many individual actions.

(s) *Impacts (short-term)* means temporary changes occurring during or immediately following an action and usually persist for a short while.

(t) *Minimize* means to reduce to the smallest possible amount or degree.

(u) *New construction in wetlands* includes draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures begun or authorized after October 1, 1977.

(v) *One percent chance flood* means the flood having one chance in 100 of being equalled or exceeded in any one-year period (a large flood). The likelihood of exceeding this magnitude increases in a time period longer than one year. For example, there are two chances in three of a larger flood exceeding the one percent chance flood in a 100-year period.

(w) *Practicable* means capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of the pertinent factors, such as environment, cost or technology.

(x) *Preserve* means to prevent modification to the natural floodplain environment or to maintain it as closely as possible to its natural state.

(y) *Project Application* means an application by an eligible applicant for Federal funding of work approved under the Act.

(z) *Restore* means to reestablish a setting or environment in which the natural functions of the floodplain can again operate.

(aa) *Structure* means walled or roofed buildings, including mobile homes and gas or liquid storage tanks that are primarily above ground (as set by the NFIP).

(bb) *Wetlands* means "those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds" (as defined in Executive Order 11990).

§ 2205.503 Exempt actions.

(a) *General.* Section 8 of Executive Order 11988 and Section 9 of Executive Order 11990 specifically exempt from the provisions of these orders emergency work essential to save lives and protect property and public health and safety performed pursuant to Sections 305 and 306 of the Act. Such exempt actions include the following examples:

(1) Category A emergency debris clearance provided under Section 305 or 306 of the Act to save lives and protect property and public health and safety.

(2) Category B emergency protective measures under Section 305 or 306 of the Act to save lives, or to protect public health and safety, or to protect property.

(3) Restorative work under Section 305 or 306 of the Act consisting of emergency repairs to essential public facilities as necessary to provide for their continued operation in accordance with § 2205.31 of these regulations.

(b) Such exempt emergency actions do not require consideration of alternative actions, agency or public review, or any other procedures set forth in this subpart. However, to the extent practicable, considering the urgency of the situation, such emergency work shall be consistent with the spirit or intent of these two Executive Orders.

§ 2205.504 Inapplicable actions.

(a) The Administrator has determined that certain types of actions taken pursuant to Pub. L. 93-288, as amended, typically do not create adverse effects or incompatible development of floodplains or wetlands. The basis for this determination included analysis of: (1) potential long- or short-term adverse impacts associated with occupancy or modification of floodplains, (2) potential direct or indirect support of floodplain development, (3) potential harm to lives and property or to natural and beneficial floodplain values, (4) potential cumulative impacts of multiple actions over time. It has further been determined that the procedures set forth in this subpart are not applicable to such actions, except that the Regional Director shall require compliance with the spirit of these two Executive Orders to the extent practicable considering the urgency of each situation. The following types of actions have been determined to be in this category:

(1) Preparedness (Title II) except for actions involved with floodplain management.

(2) Emergency Support Teams (Sec. 304).

(3) Availability of Materials (Sec. 318), except that for non-emergency uses, flood resistant materials shall be used where practicable.

(4) Mortgage and rental payment assistance (Sec. 404(b)).

(5) Unemployment Assistance (Sec. 407).

(6) Community Disaster Loans (Sec. 414), except to the extent that the proceeds of the loan will be used for repair of facilities or structures or for construction of additional facilities or structures.

(7) Emergency Communications (Sec. 415).

(8) Emergency Public Transportation (Sec. 416).

(9) Fire Suppression Assistance (Sec. 417).

(10) Actions located outside the base floodplain and critical actions located outside the 500-year floodplain which do not directly or indirectly support development and which do not impact on the base floodplain.

(b) The Administrator has also determined that certain other actions generally have no practicable alternative actions or sites. The basis for this determination included consideration of factors such as environment, cost and technology. Actions in this category are listed below. It has been further determined that, with certain exceptions, the procedures set forth in this subpart are

not applicable to such actions except that appropriate measures shall be taken to minimize potential harm to or within the floodplain and to restore and preserve beneficial floodplain values. The Regional Director may also require certain other portions of the decision-making process to be carried out for individual actions as he deems necessary.

(1) Grants for removing damaged timber from privately owned lands (Sec. 418(d)), when performed on an emergency basis.

(2) Debris removal (Sec. 413) except those grants involving non-emergency disposal of debris within the base floodplain or non-emergency removal of debris from the floodway.

(3) Individual and Family Grant programs (Sec. 408), except for the purchase of mobile homes to be placed in the base floodplain and for private structures providing access to homes.

(4) Small project grants (Sec. 419), after the Regional Director has applied steps 1, 2, 4 and 5 of the decision-making process of this subpart, except to the extent that Federal funding involved is used for construction of new facilities or structures within the base floodplain.

(5) Replacement of building contents, materials and equipment.

(6) Repairs under Section 402 of the Act to damaged facilities or structures after the Regional Director has applied steps 1, 2, 4, and 5 of the decision-making process of this subpart, except any such action for which one or more of the following are applicable:

(i) Cost of repairs is more than 50 percent of the reconstruction cost of the entire facility or structure and is more than \$25,000, (or)

(ii) The action is located in a floodway or coastal high hazard area, (or)

(iii) The facility or structure has been subject to prior damage by a flooding major disaster.

(c) For those actions described in paragraphs (a) and (b) of this section, the publication of these regulations constitutes compliance with the requirements contained in § 2205.506 of these regulations, except as noted under paragraph (b) of this section.

(d) *Finding of inapplicability.* The Administrator may apply the decision-making process prescribed in § 2205.506 to other categories of action. Based upon the completion of this 8-step decision-making process, the Administrator may find that additional types of actions are also inapplicable as discussed in this section. Criteria stated in paragraph (a) of this section are applicable to each of these findings of inapplicability. No such

finding of inapplicability may be made unless the criteria stated in paragraph (a) or (b) of this section are satisfied.

§ 2205.505 Actions requiring decision-making process.

This section includes actions which will require review and application of the decision-making process as set forth in this subpart, unless otherwise exempt or inapplicable in accordance with §§ 2205.503 or 2205.504 of these regulations. Such actions include but are not limited to:

(a) Preparedness (Title II) where the Federal funding is used for floodplain management plans or programs.

(b) Non-emergency actions under Section 418, and under Section 318 involving materials in floodprone areas that are not flood resistant.

(c) Community disaster loans (Sec. 414). Loans to the extent that construction of additional public facilities or structures is involved.

(d) Actions outside the base floodplain and critical actions outside the 500-year floodplain, when such actions have potential to impact the floodplain adversely or support floodplain development.

(e) Non-emergency debris removal from a floodway or non-emergency disposal of debris within the base floodplain.

(f) Temporary housing assistance (Sec. 404). (1) The following listing of temporary housing alternatives has been determined by the Administrator to be generally reflective of practicability concepts. This determination is based on floodplain management criteria and on the determinations of practicality included as regulatory guidance at § 2205.45 (d)(2), (e), (f). The Administrator's designee shall select temporary housing alternatives for each applicant from this list. However, despite this listing, practicable alternatives outside the base floodplain must be chosen in preference to practicable alternatives within the base floodplain.

(i) Existing resources outside the base floodplain.

(ii) Minimal repair of owner-occupied residences outside the base floodplain.

(iii) Existing resources within the base floodplain.

(iv) Minimal repair of owner-occupied residences within the base floodplain.

(v) Placement of a mobile home or readily fabricated dwelling on a private or commercial site outside the base floodplain.

(vi) Placement of a mobile home or readily fabricated dwelling on a private site within the base floodplain.

(vii) Placement of a mobile home or readily fabricated dwelling on a commercial site within the base floodplain.

(viii) Placement of a mobile home or readily-fabricated dwelling on a group site outside the base floodplain.

(ix) Placement of a mobile home or readily fabricated dwelling on a group site within the base floodplain.

(x) Any action involving housing in a mapped floodway or coastal high hazard area.

(2) The Administrator has determined that minimization measures are impracticable (considering cost effectiveness and timeliness of assistance) in the case of existing resources and minimal repairs. The appropriate minimization measures shall be taken in the case of mobile homes, especially those placed in a mapped floodway or coastal high hazard area.

(3) The sale of mobile homes or other readily fabricated dwellings, and the donation of temporary housing units to States, other governmental entities, or voluntary organizations, shall require full implementation of the decision-making process described in this subpart.

(g) *Individual and Family Grant programs (Sec. 408).* Actions which involve purchase of a mobile home or building of bridges to provide access to private residences shall require implementation of the procedures of this subpart. Should the Governor or his/her designee determine an applicant eligible for either or the above items, he/she shall request the Regional Director to make a determination with respect to this subpart. If the action is approved, the appropriate minimization measures shall be taken by applicants and grant funds may be approved for this purpose.

(h) Small project grants (Sec. 419) where the Federal funding involved is used for construction of new facilities or of new structures within the base floodplain that are not otherwise exempt or inapplicable.

(i) *Repair and restoration of public facilities (Sec. 402).* (1) Categorical grants (Sec. 402 (a), (b), or (c)).

(i) Repairs to facilities or structures.

(ii) Replacement of destroyed facilities or structures.

(iii) A grant-in-lieu.

(2) Flexible funding (Sec. 402(f)).

(i) Repairs to facilities or structures.

(ii) Replacement of destroyed facilities or structures.

(iii) New facilities or structures which the State or local government determines to be necessary to meet its

needs for governmental services and functions in the disaster-affected area.

§ 2205.506 Decision making process.

(a) *General.* The Regional Director and individuals responsible to him for executing this decision-making process must be thoroughly familiar with the two Executive Orders, the USWRC Guidelines, and with this subpart. Questions requiring clarification of any aspect of this subpart should be referred to the Administrator for his review and determination. The Regional Director is responsible to the Administrator for appropriate execution of this decision-making process in each case, involving any non-exempt applicable action funded by FDAA grant or loan in the wetlands or in a flood-plain (see Appendix A for flow chart of this 8-step process).

(b) *Step 1.* Determine if a Proposed Action is in the Base Floodplain.

(1) *Exempt of Inapplicable Actions.* First it is necessary to verify whether the proposed action is exempt (§ 2205.503) or inapplicable (§ 2205.504). If so, the 8-step decisionmaking process need not be applied except as provided in the above sections, and Federal funding under the Act may be approved.

(2) Applicable Actions.

(i) *Procedures for determining a floodplain location.* (A) Areas of predominantly private land ownership: detailed maps showing the elevations and boundaries of the "100-year" (Zones A and V) and "500-year" (Zone B) floodplains are known as "Flood Insurance Rate Maps" (FIRM). Many of the communities which have a FIRM also have a Flood Insurance Study Report (FIS) containing detailed flood information. Some less detailed maps showing the approximate areas of the base (Zone A) floodplain are available for most of the remaining communities for which a FIRM is not available. These are called "Flood Hazard Boundary Maps" (FHBM). Similar information, some very detailed, is also available from the agencies described in Appendix A. The search for flood hazard information should follow the sequence below.

- The detailed map (FIRM) or the Flood Insurance Study (FIS) report shall be consulted first.

- If a detailed map (FIRM) is not available, obtain an approximate boundary map (FHBM). If the proposed site is at or near the "100-year" boundary, if data on flood elevations are needed, or if the map does not delineate the flood hazard boundaries in the vicinity of the proposed site, seek detailed information and assistance from the agencies listed in Appendix B.

- If an approximate boundary map (FHBM) is not available or if the map does not delineate the flood hazard boundaries in the vicinity of the proposed site, seek detailed information and assistance from the agencies listed in Appendix B.

- If the agencies listed do not have or know of detailed information and are unable to assist in determining whether or not the proposed site is in the base floodplain, seek the services of a licensed engineer experienced in this type of work to obtain data needed to identify the floodplain.

(B) *Areas of predominantly Federal and State land holdings:* If a decision involves an area or location within extensive Federal or State holdings and FIS reports and FIRM or FHBM maps are not available, information shall be sought from the land administering agency before information and/or assistance is sought from the agencies listed in Appendix B. If none of these agencies has information or can provide assistance, the services of an experienced consulting engineer shall be sought as described above.

(ii) *Procedures if site is out of the base floodplain.* Actions located out of the base floodplain as shown on either the FIRM or FHBM would meet the minimum requirements and no further action is required unless the action impacts the base floodplain, indirectly supports floodplain development, or is a critical action.

(3) *Critical Action.* As indicated previously, the minimum floodplain of concern for certain critical actions is the area subject to inundation from a flood having a 0.2 percent chance of occurring in any given year (500-year floodplain). This floodplain includes both Zones A and B as shown on FIRMs and the location of each critical action will be verified as discussed under § 2205.506(b)(2). Some key concerns in identifying critical actions are:

- Whether the proposed action, if flooded, would create an added dimension to the disaster as could be the case for liquified natural gas terminals and facilities producing and storing highly volatile, toxic, or water-reactive materials.

- Given the flood warning lead-time available, whether the occupants of buildings such as hospitals, schools, and nursing homes would be insufficiently mobile to avoid loss of life and injury.

- Whether essential and irreplaceable records, utilities, and/or emergency services would be lost or become inoperative if flooded. Potential critical actions include, but are not limited to, those types of facilities or structures already mentioned in this section.

(4) *Other Actions Outside the Base Floodplain.* The location will be verified in Step 1 as discussed in § 2205.506(b)(2) for each proposed action outside the

base floodplain which impacts the base floodplain or indirectly supports floodplain development.

(c) *Step 2—Early Public Review.* (1) *General.* The objective of public involvement is to provide sufficient information early enough in the process of making decisions affecting floodplains so that the public can have impact on the decision outcome. The order includes requirements that the public be provided adequate information on plans or proposals for actions in floodplains, an accounting for the rationale for proposed actions affecting floodplains and opportunity for review and comment. This requirement for public involvement can be met in a cumulative manner, when appropriate. Several actions may be addressed in one notice or series of notices. For some actions involving limited public interest a single notice in a local newspaper or letter to interested parties will suffice.

(2) *Procedures.* The Regional Director may require the State, or applicant through the State, to assist him in developing and executing a plan and a procedure for giving public notice of a proposed action. Such plan and procedure shall in each case contain the following elements:

- A description of the overall audience, including specific segments to whom public notice information will be targeted (e.g., floodplain residents, elected officials, basin residents, interest groups, other agencies, etc.). The responsibility is to reach as broad an audience as possible.

- A description of the vehicles or public information mechanisms which will be utilized to reach the target audience (e.g., public hearings, newsletters, workshops, advisory groups, etc.). The responsibility is to provide continuous interaction and involvement opportunities for the public during the floodplain decision-making process.

- A description of the purpose for which various public notice actions will be undertaken and assurance that public input will be integrated into the decision-making process (e.g., specific efforts to provide one-way information dissemination, two-way public communication or interaction, etc.). The responsibility is to provide information which promotes the fullest understanding of the proposed plan or action.

- A statement explaining the timing of public notice actions to promote public understanding and provide opportunities for the public to affect a proposed action or plan before alternative actions have been precluded.

The Regional Director or his designee shall insure that this plan and procedure is compatible with Section (2)(b) of Executive Order 11514 and that they apply to actions which do not require preparation of an Environmental Impact Statement (EIS) under Section 102(2)(C) of NEPA.

If there is a reasonable likelihood that a proposed action or a practicable alternative outside the base floodplain will impact the base floodplain, this shall be announced as early as possible without any delay to obtain more detailed information being developed. Public notice must precede major site identification and analysis so the public can have an input early in the decision-making process of preliminary site screening and selection. If not, options for public choice may be foreclosed, or decisions will not be based on similarly detailed information bases.

Early public notice is the first in a series of public information and involvement activities. This would logically be followed by continuing public communication at Step 4, in identifying impacts, Step 6, reevaluating alternatives through the environmental review process, and at Step 7, in the issuance of findings and explanation of why the proposed plan or action must impact the floodplain.

(d) *Step 3—Identify and Evaluate Practicable Alternatives to Locating in the Base Floodplain.* (1) Having determined that a proposed action is located in the base floodplain, the Regional Director is required by the Order to identify and evaluate practicable alternatives to locating in the base floodplain. Alternatives to be evaluated include: (i) carrying out the proposed action at a location outside the base floodplain (alternative sites); (ii) other means which accomplish the same purpose as the proposed action (alternative actions); and (iii) no action.

(2) In determining how this identification of alternatives is to be carried out, the Regional Director may categorize certain types of actions and shall perform the steps as prescribed in the following paragraphs.

(i) Actions which must be located in the floodway. Some facilities or structures may have functionally dependent uses and must be located in the floodplain in order to function. An example of such a facility would be a dam or floodwall. This type of action may be assumed to have no practicable alternative to locating in the floodplain. The Regional Director shall document the reasons why the floodplain location is required. Certain other facilities or structures must be located in the floodway in order to function, such as water intakes and stream gauging stations. For these actions no alternatives need be identified and the review may proceed to Step 4—Identification of Impacts and Step 5—Minimize, Restore and Preserve. In some instances where the magnitude and severity of damages within the base floodplain virtually eliminate all non-conforming facilities or structures, the proposed action, or actions, create a

situation that is particularly conducive to sound floodplain management as well as minimization of harm to and within the floodplain. Recognition of this situation is a key factor to be considered by the Regional Director in the practicability determinations required by this decision-making process. This type of situation also may increase the practicability of sites outside the base floodplain.

(ii) Actions with alternative locations outside the base floodplain (or outside the 500-year floodplain for critical actions). The Regional Director will consult with the State and the applicant through the State to identify acceptable alternative locations for the proposed action. Separate reports will be prepared for each such alternative location. If a practicable location outside the floodplain (base or 500-year as applicable) is found based on FDAA review of these reports it must be used, and further consideration of alternative locations is not necessary. At this point, the Regional Director shall determine that the proposed action within the floodplain may not be Federally funded. If the applicant decides to proceed with the practicable alternative action outside the floodplain, the Regional Director may then complete the decision-making process and approve eligible Federal funding. If the applicant declines to proceed with the practicable alternative outside the base floodplain, as determined by the Regional Director, the latter may not approve Federal funding. However, the applicant may propose other actions, perhaps based on flexible funding or a grant-in-lieu. It may then be necessary to repeat the 8-step decision-making process for the new proposed action.

(iii) Actions with alternative locations within the base floodplain, or within the 500-year floodplain for critical actions involving facilities or structures that may not be adequately floodproofed. If no practicable location outside the floodplain is found, then locations within the floodplain which might have less potential for harm or impact on the floodplain should be considered. A report will be made out for each alternative location. Each report will also include a cost breakdown of applying minimization standards as described in Step 5 of this decision-making process (2205.506(f)).

(iv) Alternative actions at the same location. If no practicable alternative locations to the original location exist, then the Regional Director will consult with the applicant to determine if there are alternative methods, including floodproofing, for accomplishing the

same purpose or function as that proposed which will have less potential for harm or impact on the floodplain. The alternative method will be evaluated as described above for alternative locations within the floodplain.

(v) No action—The alternative of not completing the action at all must be considered if no practicable alternative outside the floodplain or practicable alternate action is found.

(e) *Step 4—Identify Impacts of Proposed Action.* (1) General. After identifying a practicable alternative, the impacts of this action must be identified within two areas; potential harm to lives and property and impact upon the natural and beneficial floodplain values. Since the Order is based primarily on NEPA, the Regional Director can draw upon the impact identification and assessment procedures which have been developed in the implementation of NEPA. This review shall consider whether the proposed action will result in an increase in the useful life of any structure or facility in question, or maintain the investment at the same risk and exposure of lives to the flood hazard, or forego an opportunity to restore the natural and beneficial values served by the floodplain.

(2) Step 4.A. General Concepts. In his review of a proposed or alternative action that is not exempt or inapplicable, the Regional Director shall specifically consider and evaluate: (i) impacts associated with modification of wetlands or floodplains regardless of its location; (ii) additional impacts which may occur when certain types of actions may support subsequent actions which have additional impacts of their own; (iii) adverse impacts of the proposed actions on lives and property and on natural and beneficial floodplain or wetland values; (iv) the three basic types of impacts discussed in the following paragraphs.

(A) Step 4.A.1. Direct and Indirect Support of Floodplain or Wetland Development. An action supports floodplain development if it encourages, allows, serves, or otherwise facilitates additional floodplain development. The Regional Director shall consider whether or not proposed repair or restorative work has the effect of maintaining the status quo that existed prior to a major disaster in evaluating its impacts. These impacts may reinforce land use patterns which have developed without regard to hazard minimization or preservation of floodplain values and thus may be undesirable. Direct support results from actions located in wetlands or on the floodplain, while indirect

support results from those outside. All such impacts shall be evaluated.

(B) Step 4.A.2. Types of Impacts. Public notice will invite comments to identify these impacts. The Regional Director's analysis of impacts shall also consider other sources in making his analysis of impact. The three basic types of impacts which must be addressed are:

(1) Positive and negative impacts: both shall be identified, even though the focus of impact identification and assessment is on negative or adverse impacts. This is necessary in order to identify the full range of impacts against which to weigh the practicability of a proposed action. In addition, it must be recognized that impacts which are beneficial to some, may be harmful to others.

(2) Concentrated and dispersed impacts: both may result from any action. The impact is concentrated if it occurs at or near the site of the action and is dispersed if it occurs at a site remote from the action.

(3) Short- and long-term impacts: both must be analyzed in order to evaluate the total impact of an action. Short-term impacts are temporary changes occurring during or immediately following an action and usually persist for a short while. Long-term impacts occur during or after an action and may take the form of delayed changes or changes resulting from the cumulative effects of many individual actions. Long-term impacts may persist for a considerable time and may continue indefinitely.

(3) Step 4.B. Lives and Property. After determining that a proposed action is in the base floodplain, the risk to lives and property involved in using that site must be determined. This requires an understanding of the magnitude and consequences of flooding that can be expected.

(i) Step 4.B.2. High Hazard Areas. High hazard areas are those portions of riverine and coastal floodplains nearest the source of flooding. These are the frequently flooded areas that become arenas of major flood dynamics during large floods. Here flood waters exert their maximum pressures, erosion is greatly accelerated and loss potential is increased. Additionally, these are the areas of coastal and riverine floodplains within which many of the most critical floodplain values are concentrated. In riverine situations, the high hazard area is that portion of the floodplain where impedance to flood flow resulting from man's occupancy can increase flood heights and consequently the area subject to flooding. In coastal

floodplains the high hazard area is usually confined to the beach area in front of high bluffs or the crest of primary or foredunes, where wave impact is the most significant inducing factor. In light of the high loss potential and the likelihood of significant adverse effects to floodplain values associated with the conduct, support or allowance of actions in these portions, the Regional Director must rigorously apply the Order's charge to avoid these areas.

(ii) Step 4.B.3. Evaluation of Flood Hazard. In reviewing the Damage Survey Report for a proposed action in the wetlands or in the floodplain, the Regional Director shall make a determination whether the 8-step decision-making process may be involved and shall record the determination on the Damage Survey Report. If the determination is affirmative, the hazard involved shall be clearly identified and the following considerations taken into account:

- Whether the proposed action is in a flood-fringe area such as the flood-fringe portion of a riverine floodplain or the backwater areas of a coastal floodplain.
- Whether the flood hazard is aggravated by the presence of, or potential for, destructive velocity flows, flood-related erosion, subsidence or sinkholes, or other special problems.
- Whether there is a combination of flood sources present which may flood simultaneously in the area (e.g., river and ocean, or shallow overland runoff and river, etc.).

(4) Step 4.C. Natural and Beneficial Floodplain Values. (i) Water and the adjacent floodplain exist in nature in a state of dynamic equilibrium. If one part of a coastal or riverine system is disturbed, the entire system usually readjusts toward a new equilibrium. Thus floodplain actions must be viewed with caution and a careful assessment made of their impact on natural and beneficial floodplain values.

(ii) Floodplains in their natural or relatively undisturbed state serve water resource values (natural moderation of floods, water quality maintenance, and groundwater recharge), living resource values (fish, wildlife, and plant resources), cultural resource values (open space, natural beauty, scientific study, outdoor education, and recreation), and cultivated resource values (agriculture, aquaculture, and forestry). The review will consider whether the proposed action will forego an opportunity to restore the natural and beneficial values served by the floodplains. The Regional Director shall use appropriate measures to avoid this undesirable impact.

(f) Step 5—Minimize, Restore, Preserve. (1) General. The requirements of the Order to minimize, restore, and preserve apply if a proposed action will result in harm to or within the floodplain. The term "harm," as used in the context of the Order, applies to both lives and property (Step 4.B.), and natural and beneficial floodplain values (Step 4.C.). The concept of minimization (Step 5.A.), applies to harm. The concept of restoration and preservation (Step 5.B.) applies only to floodplain values. Step 5.C. discusses some mechanisms which may be applied to achieve these three requirements. The Regional Director shall start his/her analysis of these three requirements by applying these minimum standards: (i) no non-critical structure shall be built or improved significantly unless its lowest flood intended for human occupancy including basement is at or above the level of the 100-year frequency flood; (ii) there shall be no construction in a floodway or coastal high hazard area unless the use is functionally dependent on the floodplain site; (iii) the minor repair or improvement of a structure shall be accomplished with flood resistant materials. A Regional Director may withhold financial assistance to an applicant in those cases where these minimum standards are not met, or followup with the applicant to seek another practicable alternative action.

(2) Step 5.A. Minimize. Minimize is a demanding standard and requires that harm be reduced to the smallest possible degree. From the standpoint of lives and property, potential harm to or within the floodplain must be reduced to the smallest possible amount or degree. The goal is to avoid increasing the flood loss potential associated with the level of the base flood prior to the proposed action. Where a critical action is proposed (see Step 2.C.) the goal is associated with the 500-year level of flooding. The Order's requirement to minimize potential harm applies to (i) the investment at risk, i.e., the flood loss potential of the action itself, (ii) the impact the action may have on others, and (iii) the impact the action may have on floodplain values. In his/her review and findings the Regional Director shall specify how actions will be designed and modified to minimize harm to or within the floodplain. His/her review shall determine applicability of land use regulations and safe construction practices, including floodproofing or conversion of flood-exposed portions of a facility or structure to other uses less harmful to life or property or to the environment. He/she may consult with environmental or floodplain

management specialists from the State or other Federal agencies in deciding on appropriate design changes or other modifications to achieve minimization and still have a practicable proposed action or alternative.

(3) Step 5.B. Restore and Preserve. (i) In the context of this Order, "restore" focuses upon conditions existing as a result of prior actions, while "preserve" focuses upon the impacts of a proposed action. Restore means to reestablish a setting or environment in which the natural and beneficial floodplain values can again operate as well as or better than they did prior to the major disaster. Where floodplain values have been degraded by past actions, the Regional Director must identify, evaluate and implement appropriate measures to restore the values diminished or lost.

(ii) Preserve means to prevent modification to the natural floodplain environment as it existed prior to the major disaster, or to maintain it as closely as possible to its natural state. If an action will result in harm to or within the floodplain, the Regional Director must design or modify the action to assure that it will be carried out in a manner which preserves as much of the natural and beneficial floodplain values as is possible.

(4) Step 5.C. Methods to Minimize and Preserve. A wide range of methods have been developed over time to minimize harm to lives and property from flood hazards. For example, refer to page 36, Water Resources Council Guidelines, 43 FR 6048, Federal Register Volume 43, February 10, 1978. In the recent past, other methods directed toward minimizing harm to natural and beneficial environmental values, including those associated with the floodplain, have also been developed. The technology and methodologies for achieving restoration and preservation are not as well documented nor understood, but currently are receiving increasing attention. The tools and approaches, which are directed toward attaining these three goals of the Order, shall be considered and applied at all stages of a proposed action, as appropriate, e.g., during the planning, design, construction, operation and maintenance of a proposed project.

(g) Step 6—Reevaluate Alternatives.

(1) General. (i) Having identified the impacts the proposed action would have on the floodplain (Step 4), methods to minimize these impacts, and opportunities to restore and preserve floodplain values (Step 5); the proposed action shall now be reevaluated. For proposed actions in the base floodplain, the reevaluation shall consider if the

action is still practicable at the original site. If not, consider limiting the action to make non-floodplain sites practicable. If neither is acceptable, the alternative is no action. If the proposed action is outside the base floodplain but has impacts which cannot be minimized (Step 5), consider whether the action can be modified or relocated to eliminate or reduce the identified impacts, or if the no action alternative should be chosen.

(ii) When there is no practicable alternative outside the floodplain, the reevaluation shall also include a provision for comparison of the relative adverse impacts associated with the proposed action located in an out of the floodplain. The comparison shall emphasize floodplain values. However, a site out of the floodplain should not be chosen if the overall harm is significantly greater than that associated with the floodplain site.

(2) Step 6.A. Location in the Base Floodplain. In determining whether the proposed action will be located in the base floodplain, the Regional Director must ascertain that the floodplain site is the only practicable alternative. In carrying out his analysis, the Regional Director should keep in mind the just weight the Order accorded the following requirements and the importance of the location must outweigh them:

- Avoid direct or indirect support of floodplain development wherever there is a practicable alternative;
- Reduce the risk of flood loss;
- Minimize the impact of floods and human safety, health and welfare; and,
- Restore and preserve the natural and beneficial floodplain values.

(3) Step 6.B.1. Limit Action. If an action proposed to be located in the floodplain cannot satisfy the four requirements in Step 6.A., the Regional Director shall consider reducing the criteria for the proposed action in consultation with the Governor's Authorized Representative and the applicant. This would lower the threshold for what constitutes a practicable alternative. New alternative actions and sites could then be identified and previously rejected ones reevaluated for practicability based on scaled-down expectations. Public input would be solicited to help identify these new alternatives.

(4) Step 6.C. No Action. If neither of the above courses of action are feasible, the Regional Director shall reevaluate the no action alternative.

(h) Step 7—Findings and Public Explanation. (1) General. If reevaluation results in the determination that there is no practicable alternative to locating in

or impacting upon the floodplain, a statement of findings and public explanation must be provided for the proposed action. The FDAA Public Statement of Findings and Explanation shall explain how any tradeoff analysis was conducted by the agency in making its findings. The Regional Director and the Governor's Authorized Representative should consult with the applicant to determine whether any other alternative than the proposed action within the floodplain should be considered. Possibilities of a grant-in-lieu or flexible funding as alternatives should be reviewed. If the applicant proposes an alternative outside the base floodplain, which the Governor's Authorized Representative and the Regional Director approve and determine practicable, public notice as in Step 2 can be given by the Regional Director of these findings together with a public explanation. The proposed practicable alternative outside the base floodplain can then be implemented. Some existing Regional public notice procedures may already satisfy part of the requirements of the Order (Section 2(a)(2)(ii)) through such mechanisms as OMB A-95 and NEPA procedures, or other public involvement programs. However, Regional procedures must incorporate the development and issuance of a written statement of findings and public explanation which includes:

(i) A description of why the proposed action must be located in the floodplain;

(ii) A description of all significant facts considered in making the determination including alternative sites and actions;

(iii) A statement indicating whether the actions conform to applicable State or local floodplain protection standards.

In addition, and in keeping with the concept of the overall public involvement process discussed in Step 2, the following items should be included in the statement of findings and public explanation:

(iv) A statement indicating why the NFIP criteria are demonstrably inappropriate for the proposed action;

(v) A provision for publication in the Federal Register or other appropriate vehicle;

(vi) A provision for a brief comment period prior to agency action (15 to 30 days);

(vii) A description of how the activity will be designed or modified to minimize harm to or within the floodplain.

(viii) A statement indicating how the action affects natural or beneficial floodplain values.

(ix) A statement listing other involved agencies and individuals.

(2) Step 7.A. Interagency Notice. Certain public review procedures already exist with which the Order's review requirements are to be integrated.

(i) Step 7.A.1. Programs Subject to OMB Circular A-95. For programs subject to OMB Circular A-95. For programs subject to OMB Circular A-95, the Regional Director shall send a notice, not to exceed three pages in length including a location map, to the State and area-wide A-95 clearinghouse for the areas affected. The notice shall include (as a minimum) paragraph (h)(1) (i), (ii), and (iii) from Step 7 above. It would also be helpful to the reviewer and consistent with the intent of the order to include Items 4 through 9.

(ii) Step 7.A.2. Other Programs. For programs not subject to OMB Circular A-95 review procedures, the Regional Director must develop procedures to provide for similar notice and explanation of why a proposed action is to be located in a floodplain. This notice must be circulated among interested agencies and also be made available to the public for review.

(3) Step 7.B. Actions Subject to NEPA. For major actions subject to NEPA which take place in the base floodplain, the public review requirements, discussed above as set out in Section 2(b) of Executive Order 11514, as amended, shall include the nine items listed in the introduction to Step 7. Section 2(a)(4) of the Order requires the same public notice procedures for Federal actions in the floodplain even though impacts are not significant enough to require the preparation of an environmental impact statement (EIS) under Section 102(2)(C) of NEPA (Pub. L. 91-190). Under NEPA procedures, a final EIS is circulated for public and interagency review and comment. A minimum of 30 days is required to allow a review and to receive responses from the public and governmental agencies. These comments must then be considered. The findings must be made in conjunction with a final FDAA decision, and the formal statement of findings required by the Order must be issued prior to initiating the proposed action. A final EIS shall explain, if appropriate, why the responsible official has recommended or why FDAA might support an action located in a floodplain.

(4) A statement of findings (including the explanatory information discussed in 7.A.) must be issued by the Regional Director in compliance with Section 2(a)(2) of the Order. This applies to all

proposed actions located within or impacting the floodplain, including proposed actions whose impacts are not significant enough or are not otherwise required to complete an EIS.

(i) Step 8—Implement Action. With the conclusion of the decision-making process described in Steps 1-7, the proposed action can be implemented. However, the Regional Director has a continuing responsibility for insuring that the action is carried out in compliance with the Order. This is especially important for projects with

long-term operation, maintenance and repair programs such as reservoirs or waste treatment facilities.

(Sec. 601, Pub. L. 93-288, 88 Stat. 163 (42 U.S.C. 5201); Executive Order 11795 as amended by Executive Order 11919; Delegation of Authority, 39 FR 28227; Executive Order 11988, 42 FR 26951, and Executive Order 11990, 42 FR 26961)

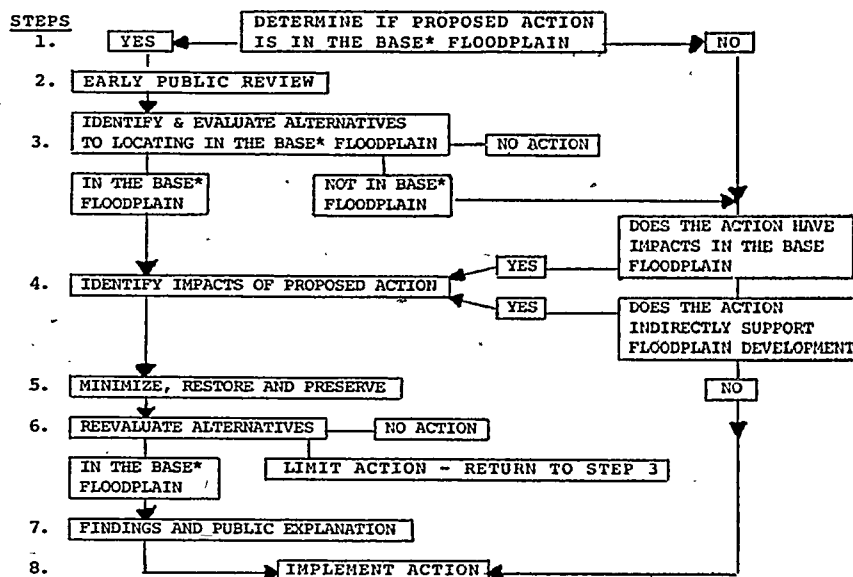
Issued at Washington, D.C., June 4, 1979.

William H. Wilcox,
Administrator, Federal Disaster Assistance
Administration.

BILLING CODE 4210-01-M

APPENDIX A

DECISION-MAKING PROCESS FOR E.O. 11988



* FOR CRITICAL ACTIONS SUBSTITUTE "500 YEAR" FOR "BASE".

Appendix B.—Sources of Floodplain Information and Technical Assistance Services for Determining Whether a Location Is in a Floodplain

Agency*	Floodplain maps and profiles		Technical assistance services
	Riverine	Coastal	
Department of Agriculture, Soil Conservation Service	•	•	•
Department of the Army, Corps of Engineers	•	•	•
Department of Commerce, National Oceanic Atmospheric Administration	•	•	•
Department of Housing and Urban Development:			
Federal Housing Administration	•	•	•
Federal Insurance Administration	•	•	•
Department of the Interior:			
Geological Survey	•	•	•
Bureau of Land Management	•	•	•
Bureau of Reclamation	•	•	•
Tennessee Valley Authority	•	•	•
Delaware River Basin Commission	•	•	•
Susquehanna River Basin Commission	•	•	•
States	Varies from State to State.		

*See Appendix A, WRC Guidelines, for detailed description.

[FR Doc. 79-18060 Filed 6-12-79; 8:45 am]

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Wednesday
June 13, 1979

Part V

**Department of the
Interior**

Geological Survey

**Proposed Order Governing Oil and Gas
Operations on the Outer Continental
Shelf of the Arctic Ocean**

DEPARTMENT OF THE INTERIOR

Geological Survey

Proposed Orders Governing Oil and Gas Operations on the Outer Continental Shelf of the Arctic Ocean

Notice is hereby given that, pursuant to Title 30 CFR 250.11, the Chief, Conservation Division, U.S. Geological Survey, has proposed Orders Nos. 1, 2, 3, 4, 5, 7 and 12 governing oil and gas lease operations on the Outer Continental Shelf (OCS) of the Arctic Ocean. These Orders will be applicable to OCS lands in the Beaufort Sea, the Chukchi Sea, and the Hope Basin.

These proposed Orders were developed from the revised Area OCS Orders which were published in final form in the Federal Register on May 18, 1979, Vol. 44, No. 98.

These proposed Orders do not reflect the revision of the existing regulations which are required by the enactment of the OCS Lands Act Amendments of 1978. It is recognized that some of these requirements will be reorganized and restructured when the existing regulations are revised to reflect the enactment of the OCS Lands Act Amendments of 1978.

The portions of the Orders which have been revised to reflect requirements for Arctic conditions are indicated in italics. Comments are solicited on these italicized portions and any other portions of the Orders which should be revised to include additional requirements pertaining to environmental, geological, or geophysical conditions which may be encountered in the Arctic Area.

A proposed Arctic Area OCS Order No. 8, containing requirements pertaining to the verification of the structural integrity of platforms and other structures including gravel and/or ice islands, is now being developed and will be published at a later date, with a solicitation for comments.

Copies of the U.S. Geological Survey standards which are referenced in OCS Order No. 2 are available from: Chief, Conservation Division, U.S. Geological Survey, Mail Stop 620, National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

Interested parties may submit written comments and suggestions on the proposed Arctic Area OCS Orders to the Chief, Conservation Division, at the address above, on or before July 30, 1979.

For further information, contact Mr. Richard B. Krah, Chief of the Branch of

Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey, Mail Stop 620, Reston, Virginia 22092 (703-860-7531). The primary author of this document is Mr. Rodney Smith, Area Oil and Gas Supervisor, Alaska Area, 800 "A" Street, Suite 109, Anchorage, Alaska 99501 (907-271-4303).

Dated: June 8, 1979.

J. R. Balsley,
Acting Director.

Arctic—OCS Orders

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 - Order No. 10—[This title and content reserved]
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[Under development]

DEPARTMENT OF THE INTERIOR

Geological Survey, Conservation Division, Western Region

ALASKA AREA—ARCTIC

OCS Order No. 1, Effective

Identification of Wells, Platforms, Structures, Mobile Drilling Units, and Subsea Objects

This Order is issued pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.37.

1. *Identification of Fixed Platforms or Structures.* Platforms and structures shall be identified at two diagonal corners by a sign with letters and figures not less than 30 centimeters (12 inches) in height with the following information:

- a. The name of the lease operator.
 - b. The area designation based on OCS Official Protraction Diagrams.
 - c. The block number in which the platform or structure is located.
 - d. The platform or structure designation.
- The information shall be abbreviated as in the following example:

The Blank Oil Company operates "C" platform on Block 999 of the Salisbury Area. The identifying sign on the platform would indicate: BOC-SAL-999-C.

2. *Identification of Mobile Drilling Units.* Floating semisubmersible platforms, bottom-setting mobile rigs, and drilling ships shall be identified by one sign with letters and figures not less than 30 centimeters (12 inches) in height affixed to the derrick so as to be visible to approaching traffic and containing the following information:

- a. The name of the lease operator.
- b. The area designation based on OCS Official Protraction Diagrams.
- c. The block number in which the drilling unit is located.
- d. The OCS lease number.
- e. The well number.

3. *Identification of Wells.* The OCS lease and well numbers shall be painted on, or a sign affixed to, the wellhead of each singly completed well. In multiple completed wells, each completion shall be individually identified at the wellhead. All identifying signs shall be maintained in a legible condition.

4. *Identification of Subsea Objects.* All subsea objects resulting from lease operations which are determined by the U.S. Coast Guard District Commander to be hazards to navigation or to the deployment of commercial fishing devices shall be identified by suitable aid-to-navigation devices as directed by the District Commander. Prior to the establishment of a subsea object or in the event of the accidental submergence of an object, the owner shall inform the District Commander of the object's description, location, and unobstructed depth of water above the object's highest point. Based on this information, the District Commander will determine what marking and permits, if any, will be required (14 U.S.C. 83, 85; 43 U.S.C. 1333; 33 CFR Part 67). The owner shall maintain these navigational markings onsite and properly functioning at all times while the obstruction remains.

5. *Departures.* All departures from the requirements specified in this Order shall be

subject to approval, pursuant to 30 CFR 250.12(b).

Rodney A. Smith,
Oil and Gas Supervisor, Arctic Area.

Approved:
Don E. Kash,
Chief, Conservation Division.

DEPARTMENT OF THE INTERIOR

Geological Survey, Conservation Division,

Western Region

ALASKA AREA—ARCTIC

OCS Order No. 2, Effective

Drilling Operations

This Order is issued pursuant to the authority prescribed in 30 CFR 250.11. All exploratory and development wells drilled for oil and gas shall be drilled in accordance with 30 CFR 250.34, 250.41, 250.91, and the provisions of this Order except for those provisions superseded by the issuance of field drilling rules.

1. Plans and Applications

1.1 *Exploration Plan and Development and Production Plan.* In accordance with 30 CFR 250.34, the lessee shall submit Exploration Plans and Development and Production Plans to the Supervisor for approval. All wells drilled under the provisions of this Order shall be included in the appropriate plan. In addition, the Exploration Plans and Development and Production Plans shall include provisions to deal with emergency situations involving:

- a. A means of drilling a relief well should a blowout occur.
- b. Loss or disablement of a drilling unit or a drilling rig.
- c. Loss of or damage to support craft.

1.2 *Application for Permit to Drill.* Prior to commencing drilling under an approved Exploration Plan or a Development and Production Plan, the lessee shall file, in triplicate, an Application for Permit to Drill (Form 9-331 C) with the District Supervisor for approval. Additionally, the Supervisor will prescribe the number of public information copies to be submitted. If drilling activity does not commence within 6 months after the approval date, the Permit to Drill will expire.

2. Drilling from Fixed Platforms and Mobile Drilling Units.

2.1 General Requirements.

2.1.1 *Fitness of Drilling Unit.* All fixed and mobile drilling units shall be capable of withstanding the oceanographic and meteorological conditions for the proposed area of operations. The lessee shall submit evidence to the District Supervisor of the fitness of the drilling unit to perform the planned drilling operation. This evidence shall include drawings and specifications of the following:

- a. The rated capacity of all major drilling equipment.
- b. Drilling safety systems.
- c. Firefighting equipment.
- d. Pollution-prevention equipment associated with the drilling operation.
- e. A schematic diagram of the drilling unit.

2.1.2 *Pre-Drilling Inspection.* Prior to commencing operations in an OCS Area, all fixed drilling platforms and mobile drilling units shall be made available for a complete inspection by the District Supervisor.

2.1.3 *Well-Site Surveys.* Lessees shall conduct a shallow geologic hazards survey, and other surveys as required by the Supervisor. In Areas where shallow hazards or hydrocarbons are unknown, shallow high-resolution geophysical data shall be obtained. The results of these surveys and an analysis of the geological hazards shall be furnished to the District Supervisor. All data obtained from the surveys and all geophysical data relating to shallow hazards shall be furnished upon request to the District Supervisor.

2.1.4 *Oceanographic, Meteorological, Performance Data.* Operators shall collect and report oceanographic, meteorological, and performance data during the period of operations. The type of information collected, method of collection, and report requirements will be as specified by the Supervisor.

2.1.5 *Subfreezing Operations.* Operators shall furnish evidence that the drilling equipment, drilling safety systems, and other associated equipment and materials are suitable for operations in those Areas which are subject to subfreezing conditions.

2.2 *Mobile Drilling Units.* Applications for drilling from mobile drilling units shall include the following:

- a. Maximum environmental design criteria, operational criteria, and a critical operations plan as described in paragraph 9 of this Order.
- b. Environmental data, statistical data and calculations which indicate the maximum-anticipated wave, wind, current values, and forces due to ice, icing, storm surges, and seismic motion to be encountered at the drill site during the period of drilling operations.
- c. Current American Bureau of Shipping Classification, U.S. Coast Guard Certificate of Inspection, or other appropriate classifications, with operational limitations.

Unless required by the Supervisor, after a mobile drilling unit has been approved for use in an area, the information detailed in subparagraph 2.1.1 need not be resubmitted unless there are changes in equipment which affect the rated capability of the unit.

2.3 *Fixed Drilling Platforms.* Applications for installations of fixed drilling platforms or structures, including artificial islands, shall be submitted in accordance with OCS Order No. 8.

3. Well Casing and Cementing.

3.1 *General Requirements.* All wells shall be cased and cemented in accordance with the requirements of 30 CFR 250.41(a)(1). The Application for Permit to Drill shall include the casing design safety factors for collapse, tension, and burst. In addition, the Application for Permit to Drill must include a proposal to fill all annuli within permafrost zones with cement or a liquid with a freezing point below the minimum permafrost temperature to prevent internal freezeback. The cement used to cement through permafrost zones must be designed to set before freezing and to have a low heat of hydration to prevent excessive thawing of

the permafrost zones. Wells drilled in areas which are underlain by freshwater aquifers shall have casing programs which are designed to protect the freshwater zones. In cases where cement has filled the annular space back to the ocean floor, upon approval by the District Supervisor, the cement may be washed out or displaced to a depth not exceeding 12 meters (39 feet) below the ocean floor to facilitate casing removal upon well abandonment. For the purpose of this Order, the several casing strings in order of normal installation are drive or structural, conductor, surface, intermediate, and production casing. If there are indications of inadequate cementing (such as lost returns, cement channeling, or mechanical failure of equipment in the surface-, intermediate-, and production-casing strings), the lessee shall evaluate the adequacy of the cementing operations by pressure testing the casing shoe, running a cement bond log, running a temperature survey, or a combination thereof before continuing operations. If the evaluation indicates inadequate cementing, the lessee shall recement or take other actions in accordance with the instructions of the District Supervisor. The lessee shall verify the adequacy of the remedial cementing operations as required by the District Supervisor.

The design criteria for all wells shall consider all pertinent factors for well control, such as:

- a. Formation fracture gradients.
- b. Formation pressure.
- c. Maximum-anticipated surface pressure.
- d. Casing setting depths.
- e. *Permafrost zones.* The lessee shall utilize appropriate drilling technology and state-of-the-art methods, such as drilling-rate evaluation, shale-density analysis, or other appropriate methods in order to enhance the evaluation of conditions of abnormal pressure and to minimize the potential for the well to flow or kick.

All casing, except drive pipe or structural casing, shall be new pipe which meets or exceeds American Petroleum Institute (API) standards, or reconditioned used pipe that has been tested to assure that it will meet or exceed API standards for new pipe. If casing which is not fabricated to API standards is used, the manufacturer's specifications shall be included on the Application for Permit to Drill (Form 9-331 C).

In permafrost zones, the surface casing shall have minimum axial post-yield strain properties of 0.9 percent in tension and 1.25 percent in compression. Other means for maintaining the integrity of the well from the effects of permafrost thaw may be approved by the Supervisor upon application.

3.2 *Drive or Structural Casing.* This casing shall be set by drilling, driving, or jetting to a minimum depth of 30 meters (98 feet) below the ocean floor or to other depths, as may be required or approved by the District Supervisor, in order to support unconsolidated deposits and to provide hole stability for initial drilling operations. If this portion of the hole is drilled, the drilling fluid shall be of a type that is in compliance with the liquid disposal requirements of OCS Order No. 7, and a quantity of cement

sufficient to fill the annular space of the drilled hole shall be used.

3.3 Conductor and Surface Casing Setting and Cementing Requirements.

3.3.1 Conductor and Surface Casing Setting Depths. Casing design and setting depths shall be based upon all engineering and geologic factors, including the presence or absence of hydrocarbons, other potential hazards, and water depths. These strings of casing shall be set at the depths specified, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; however, the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or, if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. The District Supervisor may prescribe the exact setting depths for those wells which may encounter abnormal pressure conditions.

In permafrost-free areas, conductor casing setting depths shall be between 91 meters (298 feet) and 305 meters (1,000 feet) TVD below the ocean floor, and surface casing setting depths shall be between 305 meters (1,000 feet) and 1,400 meters (4,593 feet) TVD below the ocean floor.

In areas containing permafrost, the conductor or surface casing shall be set and cemented after drilling a maximum of 150 meters (492 feet) below the base of the permafrost. Where conditions warrant, the District Supervisor may approve a program where surface casing may be set at a greater depth below the base of permafrost, but not to exceed 1,400 meters (4,593 feet) below the ocean floor.

Engineering, geophysical, and geologic data used to substantiate the proposed setting depths of the conductor and surface casings (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with the Application for Permit to Drill.

3.3.2 Conductor Casing Cementing Requirements. Conductor casing shall be cemented with a quantity of cement sufficient to fill the calculated annular space up to the top of the casing. Cement fill to the ocean floor shall be verified by the observation of cement returns. In the event that observation of cement returns is not feasible or possible, the method of verifying the cement fill shall be approved by the district Supervisor.

3.3.3 Surface Casing Cementing Requirements. Surface casing shall be cemented with a quantity of cement sufficient to protect all freshwater zones, to provide well control until the next string of casing is set, with sufficient cement to fill the annular space to the top of the permafrost zone, and with the cement fill at least 60 meters (197 feet) inside the conductor casing, or as approved by the District Supervisor. Any portion of the annulus opposite a permafrost zone which is not protected by cement shall be filled with a liquid with a freezing point below the minimum permafrost temperature to prevent internal freezeback. After drilling a maximum of 15 meters (49 feet) of new hole,

a pressure test shall be conducted to obtain data to be used in estimating the formation fracture gradient. Pressure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight. The results of this test and any subsequent tests of the formation shall be recorded on the driller's log and used to determine the depth and maximum mud weight to be used in the intermediate hole.

3.4 Intermediate Casing Setting and Cementing Requirements. One or more strings of intermediate casing shall be set when required by anticipated abnormal pressure, mud weight, sediment, and other well conditions. The setting depth for intermediate casing shall be based on the pressure tests of the exposed formation below the surface casing shoe or on subsequent pressure tests. After drilling a maximum of 15 meters (49 feet) of new hole, a pressure test shall be conducted to obtain data to be used in estimating the formation fracture gradient. Pressure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight. The results of this test and any subsequent tests of the formation shall be recorded on the driller's log and used to determine the depth and maximum mud weight to be used in the hole below the intermediate-casing string.

A quantity of cement sufficient to cover and isolate all hydrocarbon zones and to isolate abnormal pressure intervals from normal pressure intervals shall be used. This requirement for isolation may be satisfied by squeeze cementing prior to completion, suspension of operations, or abandonment, whichever occurs first. Sufficient cement shall be used to provide annular fill-up to a minimum of 150 meters (492 feet) above the zones to be isolated or 150 meters (492 feet) above the casing shoe in cases where zonal coverage is not required. Any portion of the annulus opposite a permafrost zone not protected by cement must be filled with a liquid which has a freezing point below the minimum permafrost temperature to prevent internal freezeback.

If a liner is used as an intermediate string, it shall be lapped a minimum of 30 meters (98 feet) into the previous casing string and cemented as required for intermediate casing. The liner shall be tested by a fluid entry or pressure test to determine whether a seal between the liner top and the next larger string has been achieved. The test shall be recorded on the driller's log. If the test indicates an improper seal, the top of the liner shall be squeeze cemented. When such liner is used as production casing, it shall be extended to the surface and cemented to avoid surface casing being used as production casing.

3.5 Production Casing. Production casing shall be set before completing the well for production. It shall be cemented in a manner necessary to cover or isolate all zones above the shoe which contain hydrocarbons; but in any case, a calculated volume sufficient to fill the annular space at least 150 meters (492 feet) above the uppermost hydrocarbon zone must be used. Any portion of the annulus

opposite a permafrost zone not protected by cement must be filled with a liquid which has a freezing point below the permafrost temperature to prevent internal freezeback.

When a liner is used as production casing below intermediate casing, it shall be lapped a minimum of 30 meters (98 feet) into the previous casing string and cemented as required for the production casing. Testing of the seal between the liner top and the next larger string shall be conducted as in the case of intermediate liners and recorded on the driller's log. If the test indicates an improper seal, the top of the liner shall be squeeze cemented.

3.6 Pressure-Testing of Casing. Prior to drilling the plug after cementing, all casing strings, except the drive or structural casing, shall be pressure-tested as shown in the table below. The test pressure shall not exceed 70 percent of the internal yield pressure of the casing. If the pressure declines more than 10 percent in 30 minutes or if there is another indication of a leak, the casing shall be recemented, repaired, or an additional casing string run, and the casing tested again. The above procedures shall be repeated until a satisfactory test is obtained.

Minimum surface pressure	
Casing:	
Conductor	1,400 kilopascals (kPa) (203 psi).
Surface	* 16,900 kPa (1,000 psi).
Intermediate, liner, and Production.	* 110,400 kPa (1,508 psi) or 5 kPa/m (0.22 psi/ft) whichever is greater.

* Must not exceed 70 percent of the minimum internal yield pressure.

In the event of unscheduled drill pipe operations such as an unscheduled side-tracking operation or a fishing operation, the surface pipe shall be pressure tested, calipered, or otherwise evaluated, as approved by the District Supervisor.

After cementing any of the above strings, drilling shall not be resumed until a time lapse of 8 hours under pressure for the conductor casing string or 12 hours under pressure for all other strings. Cement is considered under pressure if one or more float valves are employed and are shown to be holding the cement in place or when other means of holding pressure is used. All casing pressure tests shall be recorded on the driller's log.

In addition to the time lapse stated above, sufficient time must elapse to allow the bottom 153 meters (502 feet) of annular cement fill, or total length of annular cement fill, if less, to attain a compressive strength of at least 3,448 kPa (500 psi) or as approved by the District Supervisor before drilling resumes.

The typical performance data for the particular cement mix used in the well shall be used to determine the time lapse required.

4. Directional Surveys. Wells are considered vertical if inclination does not exceed an average of 3 degrees from the vertical or the maximum individual inclination survey does not exceed 6 degrees. Inclination surveys shall be obtained on all vertical wells at intervals not exceeding 150 meters (492 feet) during the normal course of drilling.

Wells are considered directional if inclination exceeds an average of 3 degrees

from the vertical or the maximum individual inclination survey exceeds 6 degrees. Directional surveys giving both inclination and azimuth shall be obtained on all directional wells at intervals not exceeding 150 meters (492 feet) during the normal course of drilling and at intervals not exceeding 30 meters (98 feet) in all planned angle-change portions of the hole.

On both vertical and directional wells, directional surveys giving both inclination and azimuth shall be obtained at intervals not exceeding 150 meters (492 feet) prior to, or upon, setting surface or intermediate casing, liners, and at total depth. Composite directional surveys shall be filed with the District Supervisor. The interval shown will be from the bottom of conductor casing or, in the absence of conductor casing, from the bottom of drive or structural casing to total depth. In calculating all surveys, a correction from true north to Universal Transverse Mercator Grid north or Lambert Grid north shall be made after making the magnetic-to-true-north correction.

5. Blowout-Preventer (BOP) Equipment Requirements

5.1 General Requirements. Blowout preventers and related well-control equipment shall be installed, used, maintained, and tested in a manner necessary to assure well control.

5.1.1 BOP Equipment. Blowout-preventer equipment shall consist of an annular preventer and the specified number of ram-type preventers. The pipe rams shall be of proper size to fit the drill pipe in use. The working pressure of any blowout preventer shall exceed the maximum-anticipated surface pressure to which it may be subjected, except that the working pressure of the annular preventer need not exceed 34,475 kPa (5,000 psi).

Information submitted with the Application for Permit to Drill shall include the maximum-anticipated surface pressure and the criteria used to determine this pressure. All blowout-preventer systems shall be equipped with:

a. A hydraulic actuating system that provides sufficient accumulator capacity to supply 1.5 times the volume necessary to close all BOP equipment units with a minimum pressure of 1,400 kPa (203 psi) above the precharge pressure. An accumulator backup system, supplied by a secondary power source independent from the primary power source, shall be provided with sufficient capacity to close all blowout preventers and hold them closed. Locking devices shall be provided on the ram-type preventers. The method of BOP actuation control such as hydraulic, acoustic, or other methods, shall be described and included in the Application for Permit to Drill.

b. At least one operable remote blowout-preventer-control station, in addition to the one on the drilling floor. This control station shall be in a readily accessible location away from the drilling floor.

c. A drilling spool with side outlets, if side outlets are not provided in the BOP body, to provide for separate kill and choke lines.

d. A kill line equipped with 2 kill-line valves is required. The master valve shall be

located adjacent to the BOP. This valve shall not normally be used for opening or closing on flowing fluid. The second valve shall be located adjacent to the master valve. This valve shall be used as the control valve.

e. A fill-up line above the uppermost preventer.

f. A choke manifold equipped in accordance with "API Recommended Practice for Blowout-Prevention Equipment Systems," API RP 53, First Edition, February 1976, reissued February 1978, Sections 3A and 3B, or subsequent revisions which the Chief, Conservation Division, has approved for use.

g. Valves, pipes, and fittings upstream of, and including, the choke manifold shall have a pressure rating at least equal to the maximum-anticipated surface pressure.

h. A wellhead assembly with a working pressure at least equal to the maximum-anticipated surface pressure.

5.1.2 Auxiliary Equipment. The following auxiliary equipment shall be provided and maintained in operable condition at all times:

a. A kelly cock shall be installed below the swivel and an essentially full-opening valve of such design that it can be run through blowout preventers shall be installed at the bottom of the kelly. A wrench to fit each valve shall be stored in a conspicuous location readily accessible to the drilling crew.

b. An inside blowout preventer and an essentially full-opening drill string safety valve in the open position shall be maintained on the rig floor at all times while drilling operations are being conducted. These valves shall be maintained on the rig floor to fit all connections that are in the drill string.

c. A safety valve shall be available on the rig floor assembled with the proper connection to fit the casing string that is being run in the hole at the time.

5.1.3 Subfreezing Operations. The blowout preventers and related control equipment shall be suitable for operations in those Areas which are subject to subfreezing conditions.

5.2 Subsea BOP Requirements. The minimum requirements for drilling below the casing strings for subsea blowout-preventer stacks are tabulated below:

Drive or Structural.....	None required ¹
Conductor.....	1—Annular 1—Diverter System ²
Surface.....	1—Annular 2—Pipe Rams 1—Blind Shear Ram
Intermediate.....	1—Annular 2—Pipe Rams ³ 1—Blind Shear Ram

¹When drilling fluids are circulated to the drilling vessel, a diverter system as described in subparagraph 5.4.1 shall be installed on top of the marine riser.

²If returns to the surface cannot be established, refer to subparagraph 5.4.2.

³The choke and kill lines or equivalent vent lines, equipped with necessary connections and fittings, can be used for diversion, if approved by the Supervisor, or an annular preventer or pressure-rotating, packoff-type head, equipped with suitable diversion lines, shall be installed on top of the marine riser.

⁴To be installed on top of the marine riser. The diverter system shall provide, as a minimum two 15-centimeter (6-inch) internal diameter lines and full-opening valves.

⁵When a tapered drill string is in use, the BOP stack shall be equipped with pipe rams to fit both sizes of drill pipe.

Subsea blowout-preventer stacks shall be equipped with blind shear rams. A subsea

accumulator or a suitable alternate approved by the District Supervisor is required to provide fast closure of the preventers and to operate all critical functions in case of loss of power fluid connection to the surface. The blowout-preventer system shall include dual pod control systems in accordance with API RP 53, First Edition, February 1976, reissued February 1978, Subsection 5.B.13, or subsequent revisions which the Chief, Conservation Division, has approved for use. Prior to the removal of the marine riser for installing casing, the riser shall be displaced with seawater. Sufficient hydrostatic head shall be maintained within the well bore to compensate for the reduction in head and to maintain a safe well condition. If repair or replacement of the blowout-preventer stack is necessary after installation, this work shall be accomplished after casing has been cemented prior to drilling out the casing shoe or by setting a cement or bridge plug to assure safe well conditions.

5.3 Surface BOP Requirements. The minimum requirements for drilling below the casing strings for conventional surface blowout-preventer stacks are tabulated below:

Drive or Structural.....	1—Diverter System ¹
Conductor.....	1—Annular 1—Diverter System ¹
Surface.....	1—Annular 2—Pipe Rams 1—Blind Ram
Intermediate.....	1—Annular 2—Pipe Rams ² 1—Blind Ram

¹The diverter system shall include a minimum of two 15-centimeter (6-inch) internal diameter lines and full-opening valves.

²When a tapered drill string is in use, the BOP stack shall be equipped with pipe rams to fit both sizes of drill pipe.

5.4 Drive Pipe or Structural Casing BOP Requirements.

5.4.1 Drilling Operations from Bottom-Supported Rigs. Before drilling below this string with a bottom setting rig, a diverter system and related equipment shall be installed for circulating the drilling fluid to the drilling structure. The diverter system shall be equipped with remote control valves in the main and diverter flow lines that can be operated from the control panel prior to shutting in the well. The diverter lines shall vent in different directions to permit downwind diversion. A schematic diagram and operational procedure for the diverter system shall be submitted with the Application for Permit to Drill (Form 9-331 C) to the District Supervisor for approval.

5.4.2 Floating Drilling Operations. In drilling operations where a floating or semi-submersible type of drilling vessel is used and formation competency at structural casing setting depth is not adequate to permit circulation of drilling fluids to the vessel while drilling the conductor hole, a program which provides for safety in these operations shall be described and submitted to the District Supervisor for approval. This program shall include all known pertinent information, including seismic and geologic data, water depth, drilling-fluid hydrostatic pressure, a schematic diagram indicating the equipment to be installed from the rotary table to the proposed conductor-casing seat, and a contingency plan for moving off location.

5.5 *Conductor Casing.* Before drilling below this string, at least one remote-controlled, annular-type blowout preventer shall be installed. A diverter system and other equipment for circulating the drilling fluid to the drilling structure or vessel shall be installed as described in subparagraph 5.4.1.

5.6 *Surface and Intermediate Casing.* Before drilling below these strings, the blowout-preventer system shall consist of at least four remote-controlled, hydraulically operated blowout preventers including at least two equipped with pipe rams, one with blind rams, and one annular type. Subsea blowout-preventer stacks used with floating drilling vessels shall include one set of blind shear rams.

5.7 *Testing of BOP Systems.* Prior to conducting high-pressure tests, all BOPs shall be tested to a low pressure of 1,400 to 2,000 kPa (203 to 290 psi).

5.7.1 *BOP Testing Frequency.* Surface and subsea BOP stacks shall be tested as follows:

- a. When installed.
- b. Before drilling out after each string of casing has been set.
- c. At least once each week, but not exceeding 7 days between tests, alternating between control stations. A period of more than 7 days between tests may be allowed where drilling problems prevent testing and remedial efforts are being made, provided BOP tests will be conducted as soon as possible. Testing shall be at staggered intervals to allow each drilling crew to operate the equipment.

d. Following repairs that require disconnecting a pressure seal in the assembly.

5.7.2 *Pressure Testing Surface BOP Systems.* Ram-type BOPs and related control equipment shall be tested at the maximum-anticipated surface pressure or at 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser. The annular-type BOP shall be tested at 70 percent of its rated working pressure or 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser. Before drilling out of each casing or liner shoe, the blind rams shall be tested as required for pipe rams. When a tapered drill string is in use, the smaller pipe rams shall be tested when the smaller pipe is within the stack during a trip.

5.7.3 *Pressure Testing Subsea BOP Systems.* Subsea BOPs and all related well-control equipment shall be stump tested at the surface with water to the maximum-anticipated surface pressure, except that the annular-type BOP shall not be tested above 70 percent of its rated working pressure. After the installation of the BOP stack on the sea floor, the control equipment and pipe rams, conforming to the drill string within the stack, shall be tested as required under subparagraph 5.7.2. Before drilling out of each casing or liner shoe, the blind shear rams shall be tested as required for blind rams under subparagraph 5.7.2.

5.7.4 *Actuation of Surface BOP Systems.* The following minimum-actuation frequencies are required:

a. *Pipe Rams—Daily.* In order to prevent damage to the rams, complete closure of the rams on drill pipe is not required, provided proper operation is indicated.

b. *Blind Rams—Once each trip* while the drill pipe is out of the hole. If multiple trips are made, only one action per day is required.

c. *Annular-Type Preventer—Once each week* in conjunction with the pressure test.

d. *Control Stations—Once each trip* while the drill pipe is out of the hole; however, not more than once each day, if multiple trips are made.

e. *Choke manifold valves, kelly cocks, drill pipe safety valves—Weekly.*

5.7.5 *Actuation of Subsea BOP Systems.*

The actuation frequency requirements for subsea BOP systems shall be the same as those listed in subparagraph 5.7.4 for surface BOP systems, except item "b" pertaining to blind rams.

The blind shear rams shall be actuated once each trip from alternate control stations and control systems; however, not more than once each day, if multiple trips are made. During the weekly pressure tests, all hydraulic systems except those actuating the blind shear rams shall be actuated from each control station and control system.

5.8 *Inspection and Maintenance.* All BOP systems, marine risers, and associated equipment shall be inspected and maintained in accordance with the manufacturer's recommended procedures. The BOP systems and marine risers shall be visually inspected at least once each day if the weather and sea conditions permit the inspection. Inspection of subsea installations may be accomplished by the use of television equipment.

5.9 *Blowout-Preventer Drills.* All drilling personnel shall be indoctrinated in blowout-preventer drills and be familiar with the blowout-preventer equipment before starting work on the well. A blowout-preventer drill shall be conducted for each drilling crew in accordance with the well-control drill requirements of the U.S. Geological Survey (USGS) Outer Continental Shelf Standard, "Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations," No. T 1 (GSS-OCS-T 1), First Edition, December 1977, and subsequent revisions thereto. A BOP drill may be required by a USGS designated representative at any time during the drilling operation.

6. *Mud Program.* The characteristics, use, and testing of drilling mud and the implementation of related drilling procedures shall be designed to prevent the loss of well control. Sufficient quantities of mud materials shall be maintained readily accessible for use at all times to assure well control.

Mud temperatures shall be controlled to minimize heat loss to and thawing of the permafrost which can result in serious well problems. To insure maximum safety, hydrate zones shall be anticipated and diagnosed quickly, and drilled at controlled rates with mud cooled to the hydrate equilibrium temperature. To prevent problems after hydrate zones are penetrated, cooled muds shall continue to be used, and where possible, hydrate zones should be cased off with high-collapse-strength casing.

6.1 *Mud Control.* Before starting out of the hole with drill pipe, the mud shall be properly conditioned. Proper conditioning requires either circulation with the drill pipe just off bottom to the extent that the annular volume is displaced, or proper documentation in the driller's log prior to pulling the drill pipe as follows:

a. There was no indication of influx of formation fluids prior to starting to pull the drill pipe from the hole.

b. The weight of the returning mud is not less than the weight of the mud entering the hole.

c. Other mud properties recorded on the daily drilling log are within the specified ranges required by the mud program.

When the mud in the hole is circulated, the driller's log shall be so noted.

When coming out of the hole with drill pipe, the annulus shall be filled with mud before the change in mud level decreases the hydrostatic pressure 517 kPa (75 psi) or every 5 stands of drill pipe, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe and drill collars that may be pulled prior to filling the hole and the equivalent mud volume shall be calculated and posted. A mechanical, volumetric, or electronic device for measuring the amount of mud required to fill the hole shall be utilized.

When there is an indication of swabbing or influx of formation fluids, the necessary safety devices and action shall be employed to control the well. The mud shall be circulated and conditioned, on or near bottom, unless well or mud conditions prevent running the drill pipe back to the bottom.

For each casing string, the maximum pressure to be contained under the blowout preventer, before controlling excess pressure by bleeding through the choke, shall be posted near the driller's control console.

An operable vacuum-type gas separator shall be installed in the mud system prior to commencement of drilling operations. The separator shall be maintained for use throughout the drilling and completion of the well.

The mud in the hole shall be circulated or reverse-circulated prior to pulling the drill-stem test tools from the hole.

6.2 *Mud Testing and Monitoring Equipment.* Mud-testing equipment shall be maintained on the drilling rig at all times, and mud tests shall be performed once each tour, or more frequently, as conditions warrant. Such tests shall be conducted in accordance with procedures outlined in "API Recommended Practice for Standard Procedure for Testing Drilling Fluids," API RP 13B, Seventh Edition, April 1978, or subsequent revisions which the Chief, Conservation Division, has approved for use. The results of the tests shall be recorded and maintained at the drill site.

The following mud-system monitoring equipment shall be installed with derrick floor indicators and used when mud returns are established and throughout subsequent drilling operations:

a. Recording mud pit level indicator to determine mud pit volume gains and losses.

This indicator shall include both a visual and an audio warning device.

b. Mud-volume measuring device for accurately determining mud volumes required to fill the hole on trips.

c. Mud-return indicator to determine that returns essentially equal the pump discharge rate.

d. Gas-detecting equipment to monitor the drilling mud returns, with indicators located in the mud-logging compartment or on the derrick floor. If the indicators are in the mud-logging compartment, there shall be a means of immediate communication with the rig floor, and the equipment shall be continually manned.

6.3 Mud Quantities. The lessee shall include, with his Application for Permit to Drill, a tabulation of well depth versus minimum quantities of mud material, including weighting material, to be maintained at the drill site. The minimum quantities of mud material required shall be based on the following:

a. The volume required to replace the calculated capacity of the downhole and active surface mud system.

b. The quantity of weighting material required to overcome the highest anticipated formation pressure.

When the mud quantity required exceeds the storage capacity of the drilling facility, the lessee shall maintain maximum mud inventories and must receive approval from the District Supervisor of the lessee's plans to resupply mud inventories in the event of an emergency. The plan shall include an estimate of the time required for delivery of the mud supplies.

Daily inventories of mud materials, including weighting material, shall be recorded and maintained at the well site. Drilling operations shall be suspended in the absence of minimum quantities of mud material specified in the table or as modified in the approved plan.

6.4 Safety Precautions in Enclosed Mud-Handling Areas. All enclosed mud-handling areas where dangerous concentrations of combustible gases may accumulate shall be equipped with a ventilation system and with gas monitors. These enclosed areas shall be:

a. Ventilated with high-capacity, mechanical ventilation systems capable of changing the air once every 2 minutes.

b. Maintained at a negative pressure relative to the surrounding areas where discharge to an adjacent enclosed area may be hazardous.

c. Fitted with gas detectors and alarms.

d. Equipped with electrical equipment of the "explosion proof" type. Alternatively, the equipment may be pressurized to prevent the ingress of explosive gases, and where air is used for pressurizing, the air intake shall be located outside of, and as far as practicable from, hazardous areas.

7. Supervision, Surveillance, and Training.

7.1 Supervision. A representative of the operator shall provide onsite supervision of drilling operations on a 24-hour basis.

7.2 Surveillance. From the time drilling operations are initiated and until the well is completed or abandoned, a member of the

drilling crew or the toolpusher shall maintain rig-floor surveillance continuously, unless the well is secured with blowout preventers, bridge plugs, or cement plugs.

7.3 Training. By December 1, 1979, lessee and drilling contractor personnel shall be trained and qualified in accordance with the provisions of the USGS Outer Continental Shelf Standard, "Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations," No. T 1 (GSS-OCS-T 1), First Edition, December 1977, and subsequent revisions thereto.

Any driller, toolpusher, or operator's representative who received training in well-control operations between December 1, 1975, and December 1, 1979, will be credited with having met the training requirements of GSS-OCS-T 1.

After December 1, 1979, in order to maintain qualification, employees must successfully complete a USGS-approved refresher course annually and repeat the basic well-control course every 4 years, as described in the provisions of GSS-OCS-T 1. Credit for these courses shall be obtained from USGS-approved schools. The refresher course shall be completed within 45 days of the student's anniversary date. The anniversary date is established upon the student's successful completion of a basic course in well control.

Records shall be maintained at the drill site for the affected personnel, indicating the specific training and refresher courses successfully completed, the dates of completion, and the names and dates of the courses.

In those Areas which are subject to subfreezing conditions, the lessee shall ensure that personnel responsible for maintenance of the blowout-preventer stack, the associated-control equipment, and the hydraulic-control fluids shall be instructed in the proper procedures to prevent freezing of the hydraulic-control fluids in the control system and the fluids in the choke and kill lines.

8. Hydrogen Sulfide. When drilling operations are planned which will penetrate reservoirs known or expected to contain hydrogen sulfide (H₂S), or in those Areas where the presence of H₂S is unknown, or upon encountering H₂S, the preventive measures and the operating practices set forth in USGS Outer Continental Shelf Standard, "Safety Requirements for Drilling Operations in a Hydrogen Sulfide Environment," No. 1 (GSS-OCS-1), Second Edition, June 1979, or subsequent revisions thereto, shall be followed.

9. Critical Operations and Curtailment Plans. Certain operations performed in drilling are more critical than others with respect to well control, and for the prevention of fire, explosion, oil spills, and other discharges or emissions. The lessee shall file with the District Supervisor, for approval, a Critical Operations and Curtailment Plan to be followed while conducting drilling operations on each lease. This plan shall include:

a. A list or description of the critical drilling operations that are, or are likely to

be, conducted on the lease. This list or description shall specify the operations to be ceased, limited, or not to be commenced under given circumstances or conditions. This list shall include operations such as:

(1) Drilling in close proximity to another well.

(2) Drill-stem testing.

(3) Running and cementing casing.

(4) Cutting and recovering casing.

(5) Logging or wireline operations.

(6) Well-completion operations.

(7) Moving the drilling vessel off location in an emergency, repositioning the vessel on location, and reestablishing entry into the well.

b. A list or description of circumstances or conditions under which such critical operations shall be curtailed. This list or description shall be developed from all the factors and conditions relating to the conduct of operations on the lease, and shall consider but not necessarily be limited to the following:

(1) Whether the drilling operations are to be conducted from mobile or fixed platforms.

(2) The availability and capability of containment and cleanup equipment and spill-control system response time.

(3) Abnormal or unusual conditions expected to be encountered during drilling operations.

(4) Known or anticipated meteorological or oceanographical conditions.

(5) Availability of personnel and equipment for particular operations to be conducted.

(6) Other factors peculiar to the particular lease under consideration.

c. The name of the person who has overall responsibility, as the person in charge at the site, for safety of drilling operations.

When any circumstance or condition listed or described in the plan occurs or other operational limits are encountered, the lessee shall notify the District Supervisor and shall curtail the critical operations as set forth under 9a.

Deviations from the plan shall require prior approval of the District Supervisor. If emergency action requires deviation from the plan, the District Supervisor shall be notified as soon as possible.

The lessee shall review the plan at least annually. The lessee shall notify the District Supervisor of the results of this review. Any amendments or modifications of the plan are subject to the approval of the District Supervisor.

10. Field Drilling Rules. When sufficient geological and engineering information is obtained as a result of drilling operations, the lessee may make an application to the Supervisor may require an application for the establishment of field drilling rules. After field drilling rules have been established by the Supervisor, development wells shall be drilled in accordance with these rules and the requirements of this Order which are not affected by such rules.

11. Departures. All departures from the requirements specified in this Order shall be

subject to approval, pursuant to 30 CFR 250.12(b).

Rodney A. Smith,
Oil and Gas Supervisor, Arctic Area.

Approved:

Don E. Kash,
Chief, Conservation Division.

DEPARTMENT OF THE INTERIOR

Geological Survey Conservation Division
Western Region

ALASKA AREA, ARCTIC

Ocs Order No. 3 Effective

Plugging and Abandonment of Wells

The Order is issued pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.15. The operator shall comply with the following minimum plugging and abandonment procedures which have general application to all wells drilled for oil and gas. Plugging and abandonment operations shall not be commenced prior to obtaining approval from the appropriate District Supervisor. Oral or telegraphic approvals shall be in accordance with 30 CFR 250.13.

1. Permanent Abandonment.

1.1 *Isolation of Zones in Open Hole.* In uncased portions of wells, cement plugs shall be spaced to extend 30 meters (98 feet) below the bottom to 30 meters (98 feet) above the top of any oil, gas, and freshwater zones so as to isolate them in the strata in which they are found and to prevent them from escaping into other strata or the surface. The placement of additional cement plugs to prevent the migration of formation fluids in the well bore may be required by the District Supervisor.

1.2 *Isolation of Open Hole.* Where there is open hole below the casing, a cement plug shall be placed in the deepest casing string in accordance with "a" or "b" below. In the event lost circulation conditions have been experienced or are anticipated, a permanent-type bridge plug may be placed in accordance with "c" below:

a. A cement plug set by the displacement method so as to extend a minimum of 30 meters (98 feet) above and 30 meters (98 feet) below the casing shoe.

b. A cement retainer with effective back-pressure control set not less than 15 meters (49 feet) nor more than 30 meters (98 feet) above the casing shoe, with a cement plug calculated to extend at least 30 meters (98 feet) below the casing shoe and 15 meters (49 feet) above the retainer.

c. A permanent-type bridge plug set within 45 meters (148 feet) above the casing shoe with 15 meters (49 feet) of cement on top of the bridge plug. This bridge plug shall be tested in accordance with subparagraph 1.7 prior to placing subsequent plugs.

1.3 *Plugging or Isolating Perforated Intervals.* A cement plug shall be set by the displacement method opposite all open perforations (perforations not squeezed with cement) extending a minimum of 30 meters (98 feet) above and 30 meters (98 feet) below the perforated interval or down to a casing

plug, whichever is less. In lieu of setting a cement plug by the displacement method, the following two methods are acceptable, provided the perforations are isolated from the hole below:

a. A cement retainer with effective back-pressure control set not less than 15 meters (49 feet) nor more than 30 meters (98 feet) above the top of the perforated interval with a cement plug calculated to extend at least 30 meters (98 feet) below the bottom of the perforated interval and 15 meters (49 feet) above the retainer.

b. A permanent-type bridge plug set within 45 meters (148 feet) above the top of the perforated interval with 15 meters (49 feet) of cement on top of the bridge plug.

1.4 *Plugging of Casing Stubs.* If casing is cut and recovered leaving a stub, one of the following methods shall be used to plug the casing stub.

1.4.1 *Stub Termination Inside Casing String.* A stub terminating inside a casing string shall be plugged by one of the following methods:

a. A cement plug set so as to extend 30 meters (98 feet) above and 30 meters (98 feet) below the stub.

b. A cement retainer set 15 meters (49 feet) above the stub with 45 meters (148 feet) of cement set below and 15 meters (49 feet) above.

c. A permanent bridge plug set 15 meters (49 feet) above the stub and capped with 15 meters (49 feet) of cement.

1.4.2 *Stub Termination Below Casing String.* If the stub is below the next larger string, plugging shall be accomplished in accordance with either subparagraph 1.1 or 1.2.

1.5. *Plugging of Annular Space.* Any annular space communicating with any open hole and extending to the ocean floor shall be plugged with cement.

1.6 *Surface Plug.* A cement plug at least 45 meters (148 feet) in length, with the top of the plug 45 meters (148 feet) or less below the ocean floor, shall be placed in the smallest string of casing which extends to the ocean floor.

1.7 *Testing of Plugs.* The setting and location of the first plug below the surface plug shall be verified by one of the following methods:

a. By placing a minimum pipe weight of 6,800 kilograms (15,000 pounds) on the cement plug, cement retainer, or bridge plug. The cement placed above the bridge plug or retainer need not be tested.

b. By testing the plug with a minimum pump pressure of 6,900 kPa (1,000 psi) with no more than a 10-percent pressure drop during a 15-minute period.

1.8 *Mud.* Each of the respective intervals of the hole between the various plugs shall be filled with mud fluid of sufficient density to exert hydrostatic pressure exceeding the greatest formation pressure encountered while drilling the intervals between the plugs. *Fluid left in the hole adjacent to the permafrost zone shall have a freezing point below the temperature of the permafrost zone and shall not have an oil base.*

1.9 *Clearance of Location.* All casing, wellhead, equipment, and piling shall be

removed to a depth of at least 5 meters (16 feet) below the ocean floor or at a depth approved by the District Supervisor after a review of data on the ocean-bottom conditions. The operator shall verify that the location has been cleared of all obstructions.

1.10 *Cement.* The cement used for cement plugs placed across the permafrost zones must be designed to set before freezing and to have a low heat of hydration.

2. *Temporary Abandonment.* Any drilling well which is to be temporarily abandoned shall be mudded and cemented as required for permanent abandonment except for the requirements in subparagraphs 1.6. and 1.9. When a drilling well is temporarily abandoned, a bridge plug or a cement plug shall be set at the base of the deepest casing string. If a cement plug is set, it is not necessary for the cement plug to extend below the casing shoe into the open hole. When a casing stub extends above the ocean floor, the operator shall comply with the following requirements:

a. A mechanical, retrievable, or permanent bridge plug, or a cement plug at least 30 meters (98 feet) in length shall be set in the casing between 5 and 60 meters (16 and 197 feet) below the ocean floor.

b. The requirements of OCS Order No. 1, paragraph 4, "Identification of Subsea Objects."

3. *Departures.* All departures from the requirements specified in this order shall be subject to approval, pursuant to 30 CFR 250.12(b).

Rodney A. Smith,
Oil and Gas Supervisor, Arctic Area.

Approved:

Don E. Kash,
Chief, Conservation Division.

DEPARTMENT OF THE INTERIOR

Geological Survey, Conservation Division,
Western Region

ALASKA AREA, ARCTIC

OCS Order No. 4, Effective

Determination of Well Productivity

This Order is issued pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.12. An OCS lease provides for extension beyond its primary term for as long as oil or gas may be produced from the lease in paying quantities. The term "paying quantities" as used herein means production of oil and gas in quantities sufficient to yield a return in excess of operating costs. An OCS lease may be maintained beyond the primary term, in the absence of actual production, when a suspension of production has been approved in accordance with 30 CFR 250.12.

1. *Application for Determination of Well Productivity.* An application shall be submitted to the District Supervisor for the determination of every new well's capability of producing until a well, drilled on the lease, has been determined to be capable of producing oil or gas in paying quantities. The application shall be submitted within 60 days after the drilling rig has been moved from the well.

2. *Criteria for the Determination of Well Producibility.* The Supervisor shall prescribe which of the following criteria is to be used to determine the capability of a well to produce in paying quantities.

2.1 *Production Tests.* All tests must be witnessed by an authorized representative of the U.S. Geological Survey. Test data accompanied by operator's affidavit, or third-party test data, may be accepted in lieu of a witnessed test, provided approval is obtained from the District Supervisor prior to the performance of the test. All tests must conform to the following minimum requirements:

a. A production test for oil wells of at least 2 hours' duration following stabilization of flow.

b. A deliverability test for gas wells of at least 2 hours' duration following stabilization of flow or a 4-point back-pressure test.

2.2 *Production Capability Determination.* When the District Supervisor determines that open-hole evaluation data, such as wireline formation tests, drill stem tests, core data, and logs, have been demonstrated as reliable in a geologic area such data may be considered as acceptable evidence that a well is capable of producing in paying quantities.

3. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.12(b).

Rodney A. Smith,
Oil and Gas Supervisor, Arctic Area.

Approved:

Don E. Kash,
Chief, Conservation Division.

DEPARTMENT OF THE INTERIOR

Geological Survey, Conservation Division,
Western Region

ALASKA AREA, ARCTIC

OCS Order No. 5, Effective Production Safety Systems

This Order is issued pursuant to the authority prescribed in 30 CFR 250.11 and 250.12(a), and in accordance with 30 CFR 250.41(b), 250.42, and 250.46. The lessee shall be responsible for compliance with the requirements of this Order in the installation and operation of the production safety systems on all platforms and structures including those facilities not operated or owned by the lessee. All applications for approval under the provisions of this Order shall be submitted to the District Supervisor.

1. *Technological Improvement.* The lessee is encouraged to continue the development of safety-system technology. As research and product improvement result in increased effectiveness of existing safety equipment or the development of new equipment systems, such equipment may be used or required.

2. *Quality Assurance and Performance of Safety and Pollution-Prevention Equipment.* Safety and Pollution-Prevention Equipment (SPPE) shall conform to the following quality assurance standards or subsequent revisions which the Chief, Conservation Division, has approved for use.

a. American National Standards Institute/American Society of Mechanical Engineers Standards "Quality Assurance and Certification of Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations," ANSI/ASME SPPE-1-1977, December 1977 (formerly ANSI/ASME-OCS-1-1977).

b. American National Standards Institute/American Society of Mechanical Engineers Standard "Accreditation of Testing Laboratories for Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations," ANSI/ASME-SPPE-2-1977, December 1977 (formerly ANSI/ASME-OCS-2-1977).

The dates for compliance with these quality assurance standards, the applicable SPPE components, and the applicable SPPE specifications are identified in subparagraph 3.2 and subparagraph 4.2.

3. Subsurface-Safety Devices.

3.1 *Installation.* All tubing installations open to hydrocarbon-bearing zones shall be equipped with a subsurface-safety device such as a Surface-Controlled Subsurface-Safety Valve (SCSSV), a Subsurface-Controlled Safety Valve (SSCSV), an injection valve, or a tubing plug, unless, after application and justification, the well is determined to be incapable of flowing. The device shall be installed at a depth of 30 meters (98 feet) or more below the ocean floor within 2 days after production is stabilized. *In areas with permafrost, the device shall be installed at a depth of 30 meters (98 feet) or more below the base of the permafrost within 2 days after production is stabilized.*

The well shall be attended at the wellhead while open to a hydrocarbon-bearing zone, unless a subsurface-safety device is installed.

3.1.1 *Subsurface-Safety Valves.* The requirements for subsurface-safety valves vary according to the shut-in tubing pressure of the well. Alternatives to the following requirements may be approved by the Supervisor when greater reliability or safety can be demonstrated.

Wells completed after the effective date of this Order shall be equipped with one of the following:

a. All tubing installations shall be equipped with a surface- or other remotely controlled subsurface-safety device if the shut-in tubing pressure of the well is 27,600 kilopascals (kPa) (4,000 psi) or less.

b. If the shut-in tubing pressure of the well is greater than 27,600 kPa (4,000 psi), the well shall be equipped with a subsurface-controlled subsurface-safety valve. When the shut-in tubing pressure declines below 27,600 kPa (4,000 psi), a surface- or other remotely controlled subsurface-safety valve shall be installed when the tubing is first removed and reinstated.

3.2 *Specification for Subsurface-Safety Valves.* Surface-controlled and subsurface-controlled subsurface-safety valves required by subparagraphs 3.4 and 3.5, which are installed on new installations after July 1, 1979, shall conform to "American Petroleum Institute (API) Specification for Subsurface-Safety Valves," API Spec 14A, Third Edition, November 1978, or subsequent revisions

which the Chief, Conservation Division, has approved for use at the time of installation.

3.3 *Design, Installation, and Operation.* After the effective date of this Order, new installations of subsurface-safety valves shall be in accordance with "API Recommended Practice for Design, Installation, and Operation of Subsurface Safety Valve Systems," API RP 14B, First Edition, October 1973, or subsequent revisions which the Chief, Conservation Division, has approved for use.

3.4 *Surface-Controlled Subsurface-Safety Valves.* After the effective date of this Order, all tubing installations open to a hydrocarbon-bearing zone shall be equipped with a surface-controlled subsurface-safety valve, except as specified in subparagraphs 3.1, 3.5, and 3.6. The surface controls may be located on the site or at a remote location.

The lessee shall furnish evidence that the surface-controlled subsurface-safety devices and related equipment are capable of normal operation in those Areas which are subject to subfreezing conditions.

3.4.1 *Testing of Surface-Controlled Subsurface-Safety Valves.* Each surface-controlled, or other remotely controlled, subsurface-safety valve installed in a well shall be tested in accordance with Appendix E of API RP 14B, when installed or reinstalled, at least monthly for the first 3 months, and thereafter at intervals not to exceed 6 months. If the device does not operate properly, it shall be promptly removed, repaired, reinstalled, or replaced, and tested to ensure proper operation.

3.5 *Subsurface-Controlled Subsurface-Safety Valves.* Tubing installations in wells completed from single-well and multiwell satellite caissons or jackets and ocean floor completions may be equipped with a subsurface-controlled subsurface-safety valve in lieu of surface- or other remotely controlled subsurface-safety valves.

3.5.1 *Inspection and Maintenance of Subsurface-Controlled Subsurface-Safety Valves.* Each subsurface-controlled subsurface-safety valve installed in a well shall be removed, inspected, and repaired or adjusted as necessary and reinstalled at intervals not exceeding:

- (1) 6 months for those valves not installed in a landing nipple.
- (2) 12 months for those valves installed in a landing nipple.

3.6 *Tubing Plugs in Shut-in Wells.* A tubing plug shall be installed in lieu of, or in addition to, other subsurface-safety devices if a well has been shut in for a period of 6 months. Tubing plugs shall be set at a depth of 30 meters (98 feet) or more below the ocean floor. *In areas containing permafrost, each tubing-plug installation shall be approved by the District Supervisor on a case-by-case basis.* All retrievable plugs installed after the date of this Order shall be of the pump-through type. All wells perforated and completed but not placed on production shall be equipped with a subsurface-safety valve or tubing plug within 2 days after completion. A surface-controlled subsurface-safety valve of the pump-through type may be used as a pump-through tubing plug for the purpose of this subparagraph,

provided the surface control has been rendered inoperative. A shut-in well which is equipped with a tubing plug shall be inspected for leakage by opening the well to possible flow at intervals not exceeding 6 months. If a liquid leakage rate in excess of 400 cc/min or a gas leakage rate in excess of 7 d m³/sec (15 cubic ft/min) is observed, the plug shall be removed, repaired, and reinstalled, or an additional tubing plug may be installed in lieu of removal and repair.

3.7 Injection Wells. A surface-controlled subsurface-safety valve or an injection valve capable of preventing backflow shall be installed in all wells placed in injection service after the effective date of this Order.

This requirement is not applicable if the District Supervisor concurs that the well is incapable of flowing. The lessee shall verify the no-flow condition of the well annually and submit an annual report certifying the no-flow status of the well.

3.8 Temporary Removal for Routine Operations. Each wireline or pumpdown-retrievable subsurface-safety device may be removed, without further authorization or notice, for a routine operation which does not require the approval of a Sundry Notice and Report on Wells (Form 9-331), for a period not to exceed 15 days. The well shall be identified by a sign on the wellhead stating that the subsurface-safety device has been removed. The removal of the subsurface-safety device shall be noted in the records as required by subparagraph 3.11g. The well shall be attended at the wellhead until the subsurface-safety device has been reinstalled, unless attendance has been waived by the District Supervisor.

3.9 Additional Safety Equipment. All tubing installations in which a wireline- or pumpdown-retrievable subsurface-safety device is installed after the effective date of this Order shall be equipped with a landing nipple, flow couplings to prevent internal abrasion, or other protective equipment, above and below, to provide for the setting of the subsurface-safety valve. The control system for all surface-controlled subsurface-safety valves shall be an integral part of the platform Emergency Shutdown System (ESD) as defined in API RP 14C, Appendix C, Section C1. In addition to the activation of the ESD system by manual action on the platform, the system may be activated by a signal from a remote location. Surface-controlled subsurface-safety valves shall close in response to shut-in signals from the ESD system or the fire loop, or both.

3.10 Emergency Action. All tubing installations open to hydrocarbon-bearing zones in which the subsurface-safety device has been removed, in accordance with the provisions of this Order, shall be identified by a sign on the wellhead stating the subsurface-safety device has been removed. A subsurface-safety device shall be available for each well on the platform. In the event of an emergency such as an impending storm, this device shall be properly installed as soon as possible with due consideration being given to personnel safety.

3.11 Records. The lessee shall maintain records for a minimum period of 5 years for each subsurface-safety device installed.

These records shall be maintained in the nearest offshore field office for a minimum period of 2 years. The records may then be transferred to the onshore field office for the remaining 3 years of the 5-year retention period. These records shall be available for review by any authorized representative of the U.S. Geological Survey (USGS). The records to be maintained shall contain verification of:

a. The design, including make, model, and type. For subsurface-controlled valves, number of the spacers, size of beans, springs, and the pressure settings.

b. The devices having been manufactured in accordance with the quality-assurance requirements of ANSI/ASME-SPPE-1 (formerly ANSI/ASME-OCS-1) as required by paragraph 2.

c. The completion and return of the receiving report to the manufacturer as required by ANSI/ASME-SPPE-1.

d. The record of all configuration modifications to the certified design.

e. Installation at the required setting depth and in accordance with the manufacturer's instructions and API RP 14B.

f. The qualifications of the personnel who directed all installations and removals.

g. The results of tests required by this Order, the dates of removals and reinstallations, and the reasons for removals and reinstallations.

h. The completion and submission of all failure reports required by paragraph 6 and all investigation reports required by paragraphs OE-2529 and OE-2670 of ANSI/ASME-SPPE-1.

3.12 Reports. Well completion reports (Form 9-330) and any subsequent reports of workover (Form 9-331) shall include the type and the depth of the subsurface-safety devices.

4. Design, Installation, and Operation of Production Safety Systems. All production facilities, including separators, treaters, compressors, headers, and flowlines, shall be designed, installed, and maintained in a manner which will facilitate an efficient, safe, and pollution-free operation.

The lessee shall furnish evidence that the surface-safety systems and related equipment are capable of normal operation in those Areas which are subject to subfreezing conditions, and that all equipment and operating procedures take into account floating ice, icing, and other extreme environmental conditions that may occur in the Area.

4.1 New Platforms. New platform production facilities shall be protected with a basic and ancillary surface-safety system designed, analyzed, tested, and maintained in operating condition in accordance with the provisions of "API Recommended Practice for Analysis, Design, Installation, and Testing of Basic Surface Safety Systems on Offshore Production Platforms," API RP 14C, Second Edition, January 1978, except Section A9, "Pipelines," which will be covered under OCS Order No. 9, or subsequent revisions which the Chief, Conservation Division, has approved for use and the additional requirements of the Order. For this application, the word "should" contained in

API RP 14C shall be read "shall," except for those contained in explanatory statements, sections 3.4c and 4.3a(4)(a)-(f). If processing components are to be utilized, other than those for which Safety Analysis Checklists (SAC's) are included in API RP 14C, the analysis technique and documentation specified therein shall be utilized to determine the effects and requirements of these components upon the safety system.

4.2 Specification for Wellhead Surface-Safety Valves. All wellhead Surface-Safety Valves (SSV's) required by subparagraph 4.1 which are installed on new installations after July 1, 1979, shall conform to "API Specification for Wellhead Surface Safety Valves for Offshore Service," API Spec 14D, Second Edition, November 1977, as amended by Supplement 1, March 1978, or subsequent revisions which the Chief, Conservation Division, has approved for use at the time of installation.

4.3 Submittal of Safety-System Design and Installation Features. Prior to installation, the lessee shall submit for approval to the District Supervisor, in duplicate, information relative to design and installation features, as indicated in subparagraphs a through g. This information shall also be maintained at the lessee's onshore field engineering office. All approvals are subject to field verifications. This information shall include:

a. A schematic flow diagram showing size, capacity, and design working pressure of separators, treaters, storage tanks, compressors, pipeline pumps, and metering devices.

b. A schematic flow diagram (reference API RP 14C, example: figure E1) and the related Safety Analysis Function Evaluation (SAFE) chart (reference API RP 14C, Subsection 4.3c). These diagrams and charts shall be developed in accordance with the provisions of API RP 14C and the additional requirements of this Order.

c. A schematic piping diagram showing the size and design pressure with reference to welding specification(s) or code(s) used. The maximum-allowable working pressures shall be determined in accordance with "API Recommended Practice for Design and Installation of Offshore Production Platform Piping System," API RP 14E, First Edition, August 1975, and Supplement 2, October 1977, or subsequent revisions which the Chief, Conservation Division, has approved for use. The recommendations contained in API RP 14E are acceptable for the design and installation of the platform piping system.

d. A diagram of the fire-fighting system.

e. Electrical system information including the following:

(1) A plan of each platform deck outlining any nonrestricted area, i.e., areas which are unclassified with respect to electrical equipment installations and outlining areas in which potential ignition sources, other than electrical, are to be installed. The area outline shall include the following information:

(a) Any surrounding production or other hydrocarbon source and a description of the deck, overhead, and firewall.

(b) Location of generators, control rooms, panel boards, major cabling or conduit

routes, and identification of the wiring method, including the identification of each wire and cable type that is utilized.

(2) Elementary electrical schematic of any platform safety-shutdown system with a functional legend.

(3) Classification of areas for electrical installations in accordance with the National Electrical Code, 1978 Edition, and with the "API Recommended Practice for Classification of Areas for Electrical Installations at Drilling Rigs and Production Facilities on Lands and on Marine Fixed and Mobile Platforms," API RP 500B, Second Edition, July 1973, or subsequent revisions which the Chief, Conservation Division, has approved for use.

f. The design and schematics of the installation and maintenance of all fire and gas detection systems shall include the following:

(1) Type, location, and number of detection heads.

(2) Type and kind of alarm, including emergency equipment to be activated.

(3) Method used for detection.

(4) Method and frequency of calibration.

(5) Name of organization to perform system inspection and calibration.

(6) A functional block diagram of the detection system, including the electric power supply.

g. Certification that the design for the mechanical and electrical systems were approved by registered professional engineers. After these systems are installed, the lessee shall submit a statement to the District Supervisor certifying that the complete installations conform to the approved designs or the lessee shall request approval of the "As-Built" changes.

5. *Additional Safety and Pollution-Control Requirements.* The following requirements modify or are in addition to those contained in API RP 14C.

5.1 *Design, Installation, and Operation.*

5.1.1 *Pressure Vessels.* Pressure vessels shall be designed, fabricated, stamped, and maintained in accordance with specific sections of the ASME Boiler and Pressure Vessel Code as listed below. The pressure vessels shall conform to the July 1, 1977, edition of the Code or subsequent revisions which the Chief, Conservation Division, has approved for use.

a. Pressure relief valves shall be designed, installed, and maintained in accordance with applicable provisions of sections I, IV, and VIII. The relief valves shall conform to the valve-sizing and pressure-relieving requirements specified in these documents; however, the relief valves shall be set no higher than the maximum-allowable working pressure of the vessel. All relief valves and vents shall be piped in such a way as to prevent fluid from striking personnel or ignition sources.

b. Steam generators shall be equipped with low-water-level controls in accordance with applicable provisions of sections I and IV.

c. The lessee shall determine and record the operating pressure ranges of all pressure-operated vessels in order to establish the pressure-sensor settings. The high-pressure shut-in sensor shall be set no higher than 10

percent above the highest operating pressure of the vessel. This setting shall also be sufficiently below the relief valve's set pressure to assure that the pressure source is shut in before the relief valve starts relieving. The low-pressure shut-in sensor shall activate no lower than 15 percent or 35 kPa (5 psi), whichever is greater, below the lowest pressure in the operating range.

d. All pressure or fired vessels used in the production of oil or gas, ordered after the effective date of this Order, shall conform to the requirements stipulated in the edition of the ASME Boiler and Pressure Vessel Code, sections I, IV, and VIII, as appropriate, in effect at the time the vessel is ordered. Uncoded vessels now in use shall have been hydrostatically tested to a pressure 1.5 times their work pressures.

The test date, test pressure, and working pressure shall be marked on the vessel in a prominent place. A record of the test shall be maintained by the lessee in the field area.

5.1.2 *Flowlines.*

a. All flowlines from wells shall be equipped with high- and low-pressure shut-in sensors located downstream of the well choke. All pressure sensors shall be equipped to permit testing with an external pressure source. The lessee shall determine and record the operating pressure ranges in order to establish pressure-sensor settings. The high-pressure shut-in sensor shall be set no higher than 10 percent above the highest operating pressure of the line; but, in all cases, it shall be set sufficiently below the maximum shut-in wellhead pressure or the gas-lift supply pressure to assure actuation of the surface-safety valve. The low-pressure shut-in sensor shall be set no lower than 10 percent or 35 kPa (5 psi), whichever is greater, below the lowest operating pressure of the line in which it is installed.

b. If a well flows directly to the pipeline before separation, the flowline and valves from the well located upstream of, and including, the header inlet valve(s) shall be able to withstand the maximum shut-in pressure of the well, unless the flowline is protected by one of the following:

(1) A relief valve which vents into the platform flare scrubber or some other location approved by the District Supervisor.

(2) An additional automatic shutdown valve controlled by an independent high-pressure sensor. The platform flare scrubber shall be designed to handle, without liquid-hydrocarbon carryover to the flare, the maximum-anticipated flow of liquid-hydrocarbons which may be relieved to the vessel.

5.1.3 *Pressure Sensors.* Pressure sensors may be of the automatic- or nonautomatic-reset type. When the automatic-reset types are used, a nonautomatic-reset relay shall be installed. All pressure sensors shall be equipped to permit testing with an external pressure source.

5.1.4 *Emergency Shutdown System.* The manually operated ESD valve shall be quick-opening and nonrestricted to enable the rapid actuation of the shutdown system. ESD stations may utilize a loop of breakable synthetic tubing in lieu of a valve. The time for the safety system to effect platform

shutdown shall not exceed 45 seconds after the automatic detection of an abnormal condition or the actuation of an ESD station. A schematic of the ESD system shall be posted at a prominent location on the platform. This schematic shall indicate the control functions of all safety devices.

5.1.5 *Engine Exhausts.* Engine exhausts shall be equipped to comply with the insulation and personnel-protection requirements of API RP 14C, Section 4.2c(4). Exhaust piping from internal-combustion engines shall be equipped with spark arrestors.

5.1.6 *Glycol-Dehydration Units.* A pressure relief system or an adequate vent shall be installed on the glycol regenerator, or at a location approved by the District Supervisor, which will prevent overpressurization of all glycol-dehydration units. The set pressure of the pressure-relief system shall be determined by the lessee and approved by the District Supervisor. The discharge of the relief valve must be vented in a nonhazardous manner. The glycol-dehydration unit shall be properly maintained to prevent overpressurization of the unit.

5.1.7 *Gas Compressors.*

a. *New Compressor Installations.* Each compressor installed after the effective date of this Order shall be equipped with the following protective equipment:

(1) A PSH, a PSL, a PSV, and an LSH to protect each interstage scrubber.

(2) An LSL to protect each interstage scrubber, unless the fluid is dumped through a choke restriction to another pressure vessel. An LSL shut-in control(s) installed in interstage scrubber(s) may be designed to actuate the automatic Shutdown Valve(s) (SDV's) installed in the scrubber dump line(s).

(3) A TSH on each compressor cylinder or other components as applicable.

(4) In addition to the provisions of API RP 14C, Subsection A8.3, PSH and PSL shut-in sensors and LSH shut-in controls protecting compressor suction and interstage scrubbers shall be designed to actuate automatic SDV's located in each compressor suction and fuel gas line so that the compressor unit and the associated vessels can be isolated from all input sources.

All automatic SDV's installed in compressor suction and fuel gas piping shall also be actuated by the shutdown of the prime mover.

b. *Small Compressor Installations.* Compressor installations of 745 kilowatts (1,000 horsepower) or less are excluded from those requirements of API RP 14C, A8.3d, which provide for installation of a blowdown valve (BDV) on the discharge line.

5.1.8 *Firefighting Systems.* Firefighting systems installed after the effective date of this Order shall conform to Subsection 5.2, "Fire Water Systems," of "API Recommended Practice for Fire Prevention and Control on Open Type Offshore Production Platforms," API RP 14G, First Edition, September 1978, or to subsequent revisions which the Chief, Conservation Division, has approved for use and to the additional requirements of this subparagraph.

A firewater system consisting of rigid pipe with firehose stations shall be installed. A fixed water-spray system shall be installed in the well bays. The system shall be installed to provide needed protection at all times in all areas where production-handling equipment is located.

Acceptable pump drivers include diesel engines, natural gas engines, and electric motors. Fuel or power shall be available for at least 30 minutes of run-time during platform shut-in time. If necessary, an alternate fuel supply shall be installed to provide for this pump-operating time.

A firefighting system using chemicals may be used or may be required in lieu of a water-spray system if the District Supervisor determines that the use of a chemical system provides equivalent fire-protection control. A diagram of the firefighting system showing the location of all firefighting equipment shall be posted in a prominent place on the platform or structure.

5.1.9 Fire and Gas Detection System.

a. Fire (flame, heat, or smoke) sensors shall be used in all enclosed high-hazard areas. Gas sensors shall be used in all inadequately ventilated, enclosed, high-hazard areas. A high-hazard area is defined as:

(1) Any enclosed area containing a gas source, except a meter house with adequate ventilation.

(2) A compressor building.

(3) Any nonsealed enclosed area within 25 feet of a producing well or service area of a producing well, unless the enclosed area does not contain an ignition source. A diagram of the detection system showing the location of all detection points shall be posted in a prominent place on the platform or structure.

b. All detection systems shall be capable of continuous monitoring. The systems shall be of the manual-reset type.

c. A fuel gas odorant and an automatic gas-detection and alarm system are required in enclosed, continuously manned areas of the facility.

d. The District Supervisor may require a gas detector or alarm in any potentially hazardous area.

e. Fire and gas detection systems shall be of a type as defined in the National Electrical Code, 1978 Edition, or subsequent revisions which the Chief, Conservation Division, has approved for use.

5.1.10 *Electrical Equipment.* The following requirements shall be applicable to all electrical equipment and systems:

a. All engines with ignition systems shall be equipped with a low-tension ignition system of a low-fire-hazard type and shall be designed and maintained to minimize the release of sufficient electrical energy to cause ignition of an external, combustible mixture.

b. All electrical generators, motors, and lighting systems shall be installed, protected, and maintained in accordance with the edition of the National Electrical Code and API RP 500B in effect at the time of approval.

c. At the time of approval, wiring methods shall conform to the National Electrical Code, 1978 Edition, or to the Institute of Electrical and Electronic Engineers (IEEE) "Recommended Practice for Electric Installation on Shipboard," IEEE Std. 45-1977,

or subsequent revisions which the Chief, Conservation Division, has approved for use. Each conductor of a wire, a cable, or a bus bar shall be made of copper on all new installations constructed after the effective date of this Order.

d. An auxiliary power supply shall be installed to provide emergency power, capable of operating all electrical equipment required to maintain safety of operations, in the event of a failure in the primary electrical power supply.

e. The elementary electrical schematic of the platform safety-shutdown system required by subparagraph 4.3e(2) shall be posted in a prominent place on the platform or structure. This schematic shall indicate the control functions of all electrically actuated safety devices.

f. Maintenance of these systems shall be by qualified personnel.

5.1.11 *Erosion.* A program of erosion control shall be in effect for wells or fields having a history of sand production. The erosion-control program may include sand probes, X-ray, ultrasonic, or other satisfactory monitoring methods. An annual report, by lease, indicating the wells which have erosion-control programs in effect and the results of the programs shall be submitted by the first of December to the appropriate District Supervisor.

5.2 General Platform Operations.

a. Safety devices and safety systems on wells which are capable of producing shall not be bypassed or blocked out of service. Safety devices may be bypassed or blocked out of service if they are temporarily out of service due to startup, maintenance, or testing procedures, provided that personnel are monitoring the blocked-out functions. Any device on wells, vessels, or flowlines which is temporarily out of service shall be flagged.

b. When wells are disconnected from producing facilities and blind-flanged or equipped with a tubing plug, compliance is not required with the provisions of API RP 14C of this Order concerning:

(1) Installation of automatic fail-close SSV on wellhead assemblies.

(2) Installation of the PSH and the PSL shut-in sensors downstream of the choke in flowlines from wells.

(3) Installation of flow safety valves (FSVs) in header individual flowlines.

c. All open-ended lines connected to producing facilities shall be plugged or blind-flanged, except those lines designed to be open-ended, such as flare or vent lines.

5.3 *Simultaneous Platform Operations.* Prior to conducting activities simultaneously with production operations which could increase the possibility of occurrence of undesirable events, such as harm to personnel or to the environment or damage to equipment, a "General Plan for Conducting Simultaneous Operations" in a producing field shall be filed for approval with the District Supervisor. This plan shall be modified and updated by supplemental plans when actual simultaneous operations are scheduled. Activities requiring these plans are drilling, completion, workover, wireline,

pumpdown, and major construction operations.

The "General Plan for Conducting Simultaneous Operations" shall include:

a. A narrative description of operations.

b. Procedures for the mitigation of potentially undesirable events including:

(1) The guidelines the lessee will follow to assure coordination and control of simultaneous activities.

(2) An indication of the person having overall responsibility at the site for the safety of platform operations.

The "Supplemental Plan for Conducting Simultaneous Operations" shall include:

a. A floor plan of each platform deck indicating critical areas of simultaneous activities.

b. An outline of any additional safety measures that are required for simultaneous operations.

c. Specification of any added or special equipment or procedural conditions imposed when simultaneous activities are in progress.

5.4 *Welding Practices and Procedures.* The following requirements are applicable to any welding practice or procedure performed on:

a. An offshore mobile-drilling unit during the drilling mode.

b. A mobile workover unit during any drilling, completion, recompletion, remedial, repair, stimulation, or other workover activity.

c. A platform, structure, artificial island, or other installation during any drilling, completion, workover, or production operation.

d. A platform, structure, artificial island, or other installation which contains a well open to a hydrocarbon-bearing zone.

For the purpose of this Order, the terms "welding" and "burning" are defined to include arc or acetylene cutting and arc or acetylene welding.

Each lessee shall file, for approval by the District Supervisor, a "Welding and Burning Safe Practices and Procedures Plan." The plan shall be filed within 90 days after the effective date of this Order and shall include the qualification standards or requirements for personnel and the methods by which the lessee will assure that only personnel meeting such standards or requirements are utilized. A copy of this plan shall be available in the field area. Any person designated as a welding supervisor shall be thoroughly familiar with this plan.

Prior to welding or burning operations, the lessee shall establish approved safe-welding areas. These areas shall be constructed of noncombustible or fire-resistant materials, be free of combustible or flammable contents, and be suitably segregated from adjacent areas. National Fire Protection Association Bulletin "Cutting and Welding Processes," No. 51B, 1971, or subsequent revisions which the Chief, Conservation Division, has approved for use, shall be used as a guide to designate these areas. A drawing showing the location of these areas shall be posted in a prominent place on the facility. All offshore welding and burning shall be minimized by onshore fabrication when feasible.

All welding equipment shall be inspected prior to beginning any welding or burning.

Welding machines located on production or process platforms shall be equipped with spark arrestors and drip pans. Welding leads shall be completely insulated and in good condition; oxygen and acetylene bottles secured in a safe place; and hoses leak-free and equipped with proper fittings, gauges, and regulators.

All welding which cannot be done in the approved safe-welding area shall be performed in compliance with the procedures outlined below:

a. Prior to the commencement of any welding or burning operation on a structure, the lessee's designated person-in-charge at the installation shall personally inspect the qualifications of the welder or welders to assure that they are properly qualified in accordance with the lessee-approved qualification standards or requirements for welders. The designated person-in-charge and the welders shall personally inspect the work area for potential fire and explosion hazards. After it has been determined that it is safe to proceed with the welding or burning operation, the designated person-in-charge shall issue a written authorization for the work.

b. During all welding and burning operations, one or more persons shall be designated as a Fire Watch. Persons assigned as a Fire Watch shall have no other duties while actual welding or burning operations are in progress. The Fire Watch shall not be a member of the welding crew. If welding is to be done in an area which is not equipped with a gas detector, the Fire Watch shall also maintain a continuous surveillance with a portable gas detector during welding.

c. Prior to any welding or burning operation, the Fire Watch shall have in his possession firefighting equipment in a usable condition. At the end of the welding operation, the equipment shall be returned to a usable condition.

d. No welding shall be done on piping, containers, tanks, or other vessels which have contained a flammable substance unless the contents have been rendered and determined to be safe for welding or burning by the designated person-in-charge.

e. If drilling, workover, or wireline operations are in progress on the platform, welding operations in other than approved safe-welding areas shall not be conducted unless the well(s) where these operations are in progress contain noncombustible fluids and the entry of formation hydrocarbons into the wellbore is precluded. All other provisions of this section shall also be applicable.

f. If welding or burning operations are conducted on wells or in the well-bay area, all producing wells shall be shut in at the surface-safety valve.

5.5 Safety Device Testing. The safety-system devices which are required by this Order shall be tested by the lessee at the interval specified below or more frequently if operating conditions warrant.

Testing shall be in accordance with API RP 14C, appendix D, and the following:

a. All PSV's shall be tested for operation at least annually. These valves shall be either

bench-tested or equipped to permit testing with an external pressure source.

b. All Pressure Sensors-High/Low (PSHL) shall be tested at least once each calendar month, but at no time shall more than 6 weeks elapse between tests.

c. All SSV's shall be tested for operation and for leakage at least once each calendar month, but at no time shall more than 6 weeks elapse between tests. The SSV's shall be tested for operation in accordance with the test procedure specified in API RP 14C, appendix D, section D4, table D2, subsection L, and tested for leakage in accordance with subsection M. If the valve does not operate properly or any fluid flow is observed in step 3 of the leakage test, the valve shall be repaired or replaced.

d. All flowline FSV's shall be checked for leakage at least once each calendar month, but at no time shall more than 6 weeks elapse between tests. The FSV's shall be tested for leakage in accordance with the test procedure specified in API RP 14C, appendix D, section D4, table D2, subsection D. If the leakage measured in step 8 exceeds a liquid flow of 400 cc/min or a gas flow of 7 dm³/sec (15 cubic ft/min), the FSV's shall be repaired or replaced.

e. All LSH and ISL controls shall be tested at least once each calendar month, but at no time shall more than 6 weeks elapse between tests. These tests shall be conducted by raising and lowering the liquid level across the level-control detector.

f. All automatic inlet SDV's which are actuated by a sensor on a vessel or a compressor shall be tested for operation at least once each calendar month, but at no time shall more than 6 weeks elapse between tests.

g. All SDV's located in liquid-discharge lines and actuated by vessel low-level sensors shall be tested for operation once each calendar month, but at no time shall more than 6 weeks elapse between tests.

h. The TSH shutdown controls installed in all compressors which are protected against abnormal pressures solely by temperature safety devices shall be tested semiannually and repaired or replaced as necessary.

i. All pumps for firefighting water systems shall be inspected and test-operated weekly.

j. All fire (flame, heat, or smoke) and gas detection systems shall be tested for operation and recalibrated semiannually, if necessary.

k. The lessee shall notify the District Supervisor when the lessee is ready to conduct a preproduction test and inspection of the integrated safety system. The lessee shall also notify the District Supervisor upon commencement of production in order that a post-production test and inspection of the integrated system may be conducted.

l. All other safety devices shall be tested annually and repaired or replaced as necessary.

5.6 Records. The lessee shall maintain records for a minimum period of 5 years for each surface-safety device installed. These records shall be maintained in the nearest offshore field office for a minimum period of 2 years. The records may then be transferred to the onshore field office for the remaining 3

years of the 5-year retention period. These records shall be available for review by any authorized representative of the U.S. Geological Survey (USGS). The records shall show the present status and history of each device, including dates and details of installation, inspection, testing, repairing, adjustments, and reinstallation. The records shall also include all failure and inventory reports required by paragraph 6 of this Order.

5.6.1 Surface-Safety Valve and Associated Actuator Records. Records for surface-safety valves and associated actuators which require compliance with paragraph 2 shall contain additional information showing verification of:

a. The devices having been manufactured in accordance with the quality assurance requirements of ANSI/ASME-SPPE-1 (formerly ANSI/ASME-OCS-1) as required by paragraph 2.

b. The completion and return of the receiving report to the manufacturer as required by ANSI/ASME-SPPE-1.

c. The completion and submission of all failure reports required by paragraph 6 and all investigation reports required by paragraphs OE-2529 and OE-2670 of ANSI/ASME-SPPE-1.

5.7 Safety Device Training. Prior to the commencement of production, the lessee shall ensure that all personnel engaged in installing, inspecting, testing, and maintaining these safety devices will have been qualified under a program as recommended by "API Recommended Practice for Qualification Programs for Offshore Production Personnel Who Work With Anti-Pollution Safety Devices," API RP T-2, revised October 1975, or subsequent revisions which the Chief, Conservation Division, has approved for use. Documented evidence of the qualifications of individuals performing these functions shall be maintained in the field area.

Manufacturers' representatives need not be qualified in accordance with API RP T-2 if they are working on equipment supplied by their company and if they are directly supervised by a qualified person who is capable of evaluating the impact of the work on the total system.

On-the-job trainees working with safety devices shall be directly supervised by a qualified person.

At the time that the lessee submits the Plan of Development and Production, required by 30 CFR 250.34-2, the lessee shall submit an application for approval to the Chief, Conservation Division, describing the training to be conducted and the methods the lessee will utilize. The application shall include:

a. A designation of the lessee's representative who is responsible for training and coordinating training matters with the USGS.

b. Failure and Inventory Reporting System (FIRS). The USGS has established a safety and pollution-prevention device Failure and Inventory Reporting System (FIRS) to enhance the reliability and safety of operations in the OCS. This system applies to offshore structures, including satellites and jackets, which produce or process

hydrocarbons and includes the attendant portions of hydrocarbon pipelines, when physically located on the structure.

When the devices specified herein are used as a part of the production-safety and pollution-prevention system, the lessee shall:

a. Submit an initial inventory and periodic updates in accordance with the procedures described in subparagraph 6.1.3.

b. Report all device failures which occur. The report content and format shall be in accordance with the procedures described in subparagraph 6.1.4. Inventory and failure data required by this Order shall be submitted to the USGS Conservation Manager in the appropriate regional office.

6.1 Data and Reporting Requirements.

6.1.1 *Format.* Inventory and failure data shall be submitted in a format containing the same information that is in the Safety Device Inventory Report (Form 9-1994) and the Safety Device Failure Report Form (Form 9-1995) and as outlined in the respective User's Instruction Booklets. Copies of the forms and booklets may be obtained from the USGS Conservation Manager in the appropriate regional office.

The specific method of submitting the required data may be selected from the following:

a. USGS Forms 9-1994 and 9-1995, using a standard coding convention (e.g., all letters capitalized, Z, I, letter O, number 0).

b. ADP card decks of standard 80-column cards.

c. Magnetic tapes which are 9-track, 800 BPI, unlabeled, blocking cannot exceed 1040 characters, odd parity, single gap (i.e., compatible with IBM equipment EBCDIC).

6.1.2 *Device Coverage.* Inventory and failure reports are to be submitted on the safety- and pollution-prevention devices on offshore structures, including satellites and jackets, which produce or process hydrocarbons, and hydrocarbon pipelines thereon. These reports shall be submitted on the following:

a. Blowdown Valve	_____	(BDV)
b. Burner Flame Detector	_____	(BSL)
c. Check Valve	_____	(FSV)
d. Combustible Gas Detector	_____	(ASH)
e. Emergency Shutdown Valve	_____	(ESD)
f. Level Sensor	_____	(LSH)
	High	_____
	Low	_____
	Hi/Lo	_____
g. Pressure Sensor	_____	(PSH)
	High	_____
	Low	_____
	Hi/Lo	_____
h. Relief Valve	_____	(PSV)
i. Shutdown Valve	_____	(SDV)
j. Surface-Safety Valve	_____	(SSSV)
k. Surface-Safety Valve	_____	(SSV)
l. Temperature Sensor	_____	(TSH)
	High	_____
	Low	_____
	Hi/Lo	_____
m. Valve Actuator on, the shutdown valve,	_____	(VA)
the blowdown valve, the surface-safety		
valves		

6.1.3 Device Inventory Reporting.

6.1.3.1 Initial Inventory.

a. For platforms in existence at the time this Order becomes effective, a complete inventory of the safety and pollution-prevention devices shall be submitted no later than 6 months after the effective date of this Order.

b. For platforms completed after this Order becomes effective, a complete inventory of

the safety and pollution-prevention devices shall be submitted no later than 1 month after the initial platform production date.

6.1.3.2 *Inventory Updates.* An updating of or addition/deletion to the latest inventory shall be submitted on a monthly basis so as to maintain a current and accurate data base. The inventory will be updated by using the contents of the Safety Device Inventory Report (Form 9-1994) and the Safety Device Failure Report (Form 9-1995).

Inventory updating due to the addition, deletion, or changeout of a device is accomplished by the lessee's reporting of all the data required on the Safety Device Inventory Report (9-1994).

Whenever a device fails and is either replaced with a new device or "fixed" and put back into service, the inventory shall be updated to reflect this change. Inventory updating, due to the failure of a device, will be performed by the USGS, using the contents of the Safety Device Failure Report (Form 9-1995). Inventory updating information shall be received no later than 30 days following the month in which the device change was made.

6.1.3.3 Inventory-Reporting Methods.

Inventory data shall be reported either on the Safety Device Inventory Reporting forms (Form 9-1994), punched cards, or magnetic tapes.

The reports shall contain all of the required information in the standard format as described in subparagraph 6.1.1.

6.1.3.4 *Inventory Verification.* The device inventory shall be verified by the lessee to ensure that the inventory data base is maintained on a current basis and that changes are being incorporated as they occur. The verification shall be accomplished no more frequently than once each 6-month period. When verification is required, the USGS will provide the lessee with a copy of the information on record, in the lessee's selected reporting format. The lessee shall review the information and either submit a letter stating that the information is correct, or make the appropriate corrections to the information provided by the USGS. The letter or appropriate corrections shall be received no later than 30 days following the month in which the inventory information which is to be verified was forwarded to the lessee.

6.1.3.5 *Inventory-Reporting Deviation.* A lessee may submit an inventory, update, or verification report differing from that described in subparagraph 6.1.3 when authorized by the USGS.

6.1.4 Device Failure Reporting.

6.1.4.1 *Failure-Data Submittal.* Device failure data shall be recorded as soon as possible after detecting the failure as defined in subparagraph 6.1.4.3. This data shall be received no later than 30 days following the month in which the failure was detected. This data must contain all of the required information and be submitted in the standard format either on Safety Device Failure Report forms (Form 9-1995), punched cards, or magnetic tape, as previously described in subparagraph 6.1.1. Information on the failed device must match that previously submitted in inventory reporting. A formal failure analysis is not required by this Order, but

each failed device shall undergo sufficient test/disassembly to establish the basic cause(s) of the failure.

6.1.4.2 *Failure-Data Verification.* After receipt of the complete failure data from the lessees, a printout shall be made of all failures by manufacturer, model, and reported cause. Each manufacturer listed shall be furnished a copy of the printout containing the reported failures of his devices only. If he disagrees with the reported failure causes, he is invited to investigate the questioned causes in coordination with the reporting lessee and provide a coordinated reply within 30 days after receipt of the printout. If no reply is received within that time period, the originally reported causes shall be considered to be correct, and the data shall be evaluated accordingly.

6.1.4.3 *Failure Definition.* The safety and pollution-prevention device Failure and Inventory Reporting System does not differentiate between a malfunction and a failure. For the purpose of this program, a failure is defined as the inability of a device to perform its designed function within specified limits. A device is considered to have failed if it does not operate (perform its function) as required within the specified tests' tolerances.

A failure report is not required for:

a. Adjustments made within specified tolerances.

b. Adjustments required due to changes in operating conditions.

7. *Crane Operations.* Cranes shall be operated and maintained to ensure the safety of facility operations in accordance with the provisions of "API Recommended Practice for Operation and Maintenance of Offshore Cranes," API RP 2D, October 1972, or subsequent revisions which the Chief, Conservation Division, has approved for use. Records of inspection, testing, maintenance, and crane operators qualified in accordance with the provisions of API RP 2D shall be kept in the field area for a period of 2 years.

"API Specification for Offshore Cranes," API Specification 2C, February 1972, or subsequent revisions which the Chief, Conservation Division, has approved for use, shall be used as a guideline for the selection of cranes.

8. Employee Orientation and Motivation Programs for Personnel Working Offshore.

The lessee shall make a planned, continuing effort to eliminate accidents due to human error. This effort shall include the training of personnel in their functions. A program to achieve safe and pollution-free operations shall be established. This program shall include instructions in the provision of "API Recommended Practice Orientation Program for Personnel Going Offshore for the First Time," API RP T-1, January 1974, or subsequent revisions which the Chief, Conservation Division, has approved for use. "API Employee Motivation Programs for Safety and Prevention of Pollution in Offshore Operations," API Bulletin T-5, September 1974, or subsequent revisions which the Chief, Conservation Division, has approved for use, shall be used as a guide in developing employee safety and pollution-prevention motivation programs.

9. Requirements for Drilling Rigs.

9.1 *Fixed Structures.* The following requirements contained in this Order are applicable to drilling rigs on fixed structures:

- a. Subparagraph 5.1.10, "Electrical Equipment."
- b. Subparagraph 5.4, "Welding Practices and Procedures."
- c. Paragraph 8, "Employee Orientation and Motivation Programs for Personnel Working Offshore."

9.2 *Mobile Drilling Units.* The following requirements contained in this Order are applicable to drilling rigs on mobile drilling units:

- a. Subparagraph 5.4, "Welding Practices and Procedures."
- b. Paragraph 8, "Employee Orientation and Motivation Programs for Personnel Working Offshore."

10. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.12(b).

Rodney A. Smith,
Oil and Gas Supervisor, Arctic Area.

Approved:

Don E. Kash,
Chief, Conservation Division.

DEPARTMENT OF THE INTERIOR

Geological Survey, Conservation Division,
Western Region

ALASKA AREA, ARCTIC

OCS Order No. 7, Effective

Pollution Prevention and Control

This Order is issued pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.43. The lessee shall comply with the following requirements.

1. *Pollution Prevention.* During the exploration, development, production, and transportation of oil and gas, the lessee shall prevent pollution of the ocean. Furthermore, by the disposal of waste materials into the ocean, the lessee shall not create conditions which will adversely affect the public health, life, property, aquatic life, wildlife, recreation, navigation, commercial fishing, or other uses of the ocean.

1.1 Liquid Disposal.

1.1.1 *Drilling-Mud Components.* The lessee shall submit, as a part of the Application for Permit to Drill (Form 9-331 C), a detailed list of drilling-mud components including the common chemical or chemical trade name of each component, a list of the drilling-mud additives anticipated for use in meeting special drilling requirements, and the proposed method of drilling-mud disposal. The disposal of drilling mud is subject to the Environmental Protection Agency's permitting procedures, pursuant to the Federal Water Pollution Control Act, as amended. Approval of the method of drilling-mud disposal into the ocean shall be obtained from the District Supervisor; each request will be decided on a case-by-case basis.

1.1.2 *Hydrocarbon-Handling Equipment.* All hydrocarbon-handling equipment for testing and production such as separators, tanks, and treaters shall be designed and

operated to prevent pollution. Maintenance or repairs which are necessary to prevent pollution of the ocean shall be undertaken immediately.

1.1.3 Curbs, Gutters, and Drains for Fixed Platforms or Structures and Mobile Drilling Units.

a. *Fixed Platforms, Structures, and Artificial Islands.* Curbs, gutters, and drains shall be installed in all deck areas to collect all contaminants in a closed sump. When open decks are used, drip pans or the equivalent shall be placed under equipment and piped to a closed sump. Closed sumps shall automatically maintain fluid at a level sufficient to prevent the discharge of oil into the ocean. Contaminants that are removed from sumps shall be disposed of in a manner which will not create pollution.

All walking and working surfaces shall be equipped with proper drainage to provide safety for personnel and to prevent pollution.

On artificial islands, all vessels containing hydrocarbons shall be placed inside an impervious berm. The volume enclosed by the berm must be in excess of the volume of the vessels containing hydrocarbons. In addition, the rig mat must be made impervious, and all drainage ditches must be directed away from the drilling rig to an impervious sump.

b. *Mobile Drilling Units.* Curbs, gutters, and drains which collect contaminants associated with the drilling operation on a mobile drilling unit shall be installed as required by subparagraph 1.1.3a.

Curbs, gutters, and drains which collect contaminants not associated with the drilling operations are subject to regulation by the U.S. Coast Guard.

1.1.4 Dischargers from Fixed Platforms or Structures and Mobile Drilling Units.

Discharges from fixed platforms or structures and mobile drilling units, including sanitary waste, produced water, drilling mud, and deck drainage, are subject to the Environmental Protection Agency's permitting procedures, pursuant to the Federal Water Pollution Control Act, as amended.

1.2 Solid Material Disposal.

1.2.1 *Well Solids.* The disposal of drill cuttings, sand, and other well solids containing oil is subject to the Environmental Protection Agency's permitting procedures, pursuant to the Federal Water Pollution Control Act, as amended. Approval of the method of disposal of drill cuttings, sand, and other well solids shall be obtained from the District Supervisor.

1.2.1 *Containers.* Containers and other similar solid-waste materials shall not be disposed of into the ocean.

1.2.3 *Equipment.* Disposal of equipment into the ocean is prohibited except under emergency conditions. The location and description of any equipment disposed of into the ocean shall be reported to the District Supervisor and to the U.S. Coast Guard in accordance with paragraph 4 of OCS Order No. 1.

2. Personnel, Inspections, and Reports.

2.1 *Personnel.* The lessee's personnel shall be instructed in the techniques of equipment maintenance and operation for the

prevention of pollution. Contractor personnel providing services offshore shall be informed in writing, prior to executing contracts, of the lessee's obligations to prevent pollution and of the provisions of this Order.

2.2 Pollution Inspections.

2.2.1 *Manned Facilities.* Manned drilling and production facilities shall be inspected daily to determine if pollution is occurring. Maintenance or repairs which are necessary to prevent pollution of the ocean waters shall be undertaken and performed immediately.

2.2.2 *Unattended Facilities.* Unattended facilities, including those equipped with remote control and monitoring systems, shall be inspected daily or at intervals prescribed by the District Supervisor to determine if pollution is occurring. Necessary maintenance or repairs shall be made immediately.

2.3 *Pollution Reports.* All spills of oil and liquid pollutants shall be reported orally to the District Supervisor and shall be confirmed in writing. All reports shall include the cause, location, volume of spill, and action taken. Reports of spills of more than 5.0 cubic meters (31.5 barrels) shall include information on the sea state, meteorological conditions, size, and appearance of slick. All spills of oil and liquid pollutants shall also be reported in accordance with the procedure contained in 33 CFR 153.203.

2.3.1 *Spills.* Spills shall be reported orally within the following time limits:

- a. Within 12 hours, if spills are 1.0 cubic meters (6.3 barrels) or less.
- b. Without delay, if spills are more than 1.0 cubic meters (6.3 barrels).

2.3.2 *Observed Malfunctions.* Lessees shall notify each other of observed pollution resulting from another's operation.

3. *Pollution-Control Equipment and Materials and Oil Spill Contingency Plans.* The lessee shall submit a description of procedures, personnel, and equipment that will be used in reporting, cleanup, and prevention of the spread of any pollution resulting from an oil spill which might occur during exploration or development activities. The following subparagraphs describe the minimum requirements for pollution-control equipment and procedures.

3.1 *Equipment and Materials.* Pollution-control equipment and materials shall be maintained by, or shall be available to, each lessee at an offshore location or at a location approved by the Supervisor. The equipment shall include containment booms, skimming apparatus, cleanup materials, and chemical agents which shall be available prior to the commencement of operations. The equipment and materials shall be inspected monthly and maintained in a state of readiness for use. The results of the inspections shall be recorded and maintained at the site.

3.2 *Oil Spill Contingency Plans.* The lessee shall submit an Oil Spill Contingency Plan for approval by the Supervisor, prior to the approval of an Exploration Plan or a Development and Production Plan. Oil Spill Contingency Plans shall be reviewed annually. All modifications of the Oil Spill Contingency Plan and the results from the review of the plan shall be submitted to the

Supervisor for approval. The Oil Spill Contingency Plan shall contain the following:

a. Provisions to assure that full resource capability is known and can be committed during an oil spill, including the identification and inventory of applicable equipment, materials, and supplies which are available locally and regionally, both committed and uncommitted, and the time required for deployment of the equipment.

b. Provisions for varying degrees of response effort depending on the severity of the oil spill.

c. Provisions of identifying and protecting areas of special biological sensitivity.

d. Establishment of procedures for the purpose of early detection and timely notification of an oil spill including a current list of names, telephone numbers, and addresses of the responsible person and alternates on call to receive notification of an oil spill; and the names, telephone numbers, and addresses of regulatory organizations and agencies to be notified when an oil spill is discovered.

e. Provisions for well-defined and specific actions to be taken after discovery and notification of an oil spill, including:

(1) Specification of an oil-spill-response operating team consisting of trained, prepared, and available operating personnel.

(2) Predesignation of an oil-spill-response coordinator who is charged with the responsibility and is delegated commensurate authority for directing and coordinating response operations.

(3) A preplanned location for an oil-spill-response operations center and a reliable communication system for directing the coordinated overall response operations.

(4) Provisions for disposal of recovered spill materials.

4. Drills and Training.

4.1 *Drills.* Drills for familiarization with pollution-control equipment and operational procedures shall be held by the lessee. The personnel identified as the oil-spill-response operating team in the Contingency Plan shall participate in these drills. The drills shall be realistic and shall include deployment of equipment. A time schedule with a list of equipment to be deployed shall be submitted to the Supervisor for approval. The drill schedule shall provide sufficient advance notice to allow U.S. Geological Survey (USGS) personnel to witness any of the drills. Drills shall be recorded, and the records shall be made available to USGS personnel. Where drill performance and results are deemed inadequate, the Supervisor may require an increase in the frequency or a change in the location of the drills until satisfactory results are achieved.

4.2 *Training.* The lessee shall ensure that training classes for familiarization with pollution-control equipment and operational procedures are provided of the oil-spill-response operating team. The supervisory personnel responsible for directing the oil-spill-response operations shall receive oil-spill-response instruction *suitable for all seasons*. The lessee shall retain course-completion certificates or attendance records issued by the organization where the instruction is provided. These records shall

be available to any authorized representative of the USGS, upon request.

5. *Spill Control and Removal.* Immediate corrective action shall be taken in all cases where pollution has occurred. Corrective action taken under the lessee's Oil Spill Contingency Plan shall be subject to modification when directed by the Supervisor. The primary jurisdiction to require corrective action to abate the source of pollution shall remain with the Supervisor, pursuant to the provisions of this Order and the Memorandum of Understanding (MOU) between the Department of Transportation (U.S. Coast Guard) and the Department of the Interior (U.S. Geological Survey) dated August 16, 1971. The use of chemical agents or other additives shall be permitted only after approval by the Supervisor in accordance with Annex X, National Oil and Hazardous Substances Pollution Contingency Plan and in accordance with the previously mentioned MOU.

6. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.12(b).

Rodney A. Smith,
Oil and Gas Supervisor, Arctic Area.

Approval:
Don E. Kash,
Chief, Conservation Division.

DEPARTMENT OF THE INTERIOR

Geological Survey, Conservation Division,
Western Region

ALASKA AREA, ARCTIC

OCS Order No. 12, Effective

Public Inspection of Records

This Order is issued pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.34, 250.97, 252.6, and 43 CFR Part 2. Requests for information made under the Freedom of Information Act, 5 U.S.C. § 552, will be governed by the provisions of 43 CFR Part 2 (40 FR 7304, February 19, 1975).

1. *Filing of Reports.* All reports on Forms 9-152, 9-330, 9-331, 9-331 C, 9-1869, 9-1870 and the forms used to report the results of multipoint back-pressure tests shall be filed by the lessee in accordance with the following:

a. All reports submitted on these forms shall include a copy with the words "Public Information" shown on the lower right-hand corner. This copy of the form shall be made available for public inspection.

b. All items on the form not marked "Public Information" shall be completed in full, and such forms and all attachments thereto shall not be available for public inspection.

c. The copy marked "Public Information" shall be completed in full except that the items described in subparagraphs 2.1 through 2.4 below and the attachments relating to such items may be excluded.

2. *Availability of Records.* It has been determined that certain records pertaining to leases and wells in the OCS and submitted under 30 CFR 250 shall be made available for public inspection, as specified below, in the Area office.

2.1 *Form 9-152—Monthly Report of Operations.* All information contained on this form shall be available except the information required in the "Remarks" column.

2.2 *Form 9-330—Well-Completion or Recompletion Report and Log.*

2.2.1 *Prior to Commencement.* Prior to commencement of production, all information contained on this form shall be available except:

- a. Item 1a, Type of Well.
- b. Item 4, Location of Well, at top production interval and at total depth.
- c. Item 22, If Multiple Completion, how many.
- d. Item 24, Producing Interval.
- e. Item 28, Type Electric and Other Logs Run.
- f. Item 28, Casing Record.
- g. Item 29, Liner Record.
- h. Item 30, Tubing Record.
- i. Item 31, Perforation Record.
- j. Item 32, Acid, Shot, Fracture, Cement Squeeze, Etc.
- k. Item 33, Production.
- l. Item 37, Summary of Porous Zones.
- m. Item 38, Geologic Markers.

2.2.2 *After Commencement of Production.*

After commencement of production, all information shall be available except Item 37, Summary of Porous Zones, and Item 38, Geologic Markers.

2.2.3 *5 Years' Elapsed Time.* If production has not commenced after an elapsed time of 5 years from the date of filing Form 9-330 as required in 30 CFR 250.38(b), excluding the total time that operations and production are suspended by direction of the Secretary of the Interior or his duly authorized representative, and further excluding the total time that operations and production are stopped or prohibited by Court order, all information contained on this form shall be available except Item 37, Summary of Porous Zones, and Item 38, Geologic Markers. Within 90 days prior to the end of the 5-year period, exclusive of exceptions noted above, the lessee shall file a Form 9-330 containing all information requested on the form except Item 37, Summary of Porous Zones, and Item 38, Geologic Markers, to be made available for public inspection. Objections to the release of such information may be submitted with the completed Form 9-330.

2.3 *Form 9-331—Sunday Notices and Reports on Wells.*

2.3.1 "Request for Approval to." When used as a "Request for Approval to:" conduct operations, all information contained on this form shall be available except Item 4, Location of Well, at top production interval and at total depth, and Item 17, Describe Proposed or Completed Operations.

2.3.2 "Subsequent Report of." When used as a "Subsequent Report of:" operations, and after commencement of production, all information contained in this form shall be available, except information contained in Item 17 pertaining to subsurface locations and measured and true vertical depths for all markers and zones not placed on production.

2.4 *Form 9-331 C—Application for Permit to Drill, Deepen, or Plug Back.* All information contained on this form and the

location plat attached thereto shall be available except Item 4, Location of Well at Proposed Production Zone, and Item 23, Proposed Casing and Cementing Program.

2.5 *Form 9-1869—Quarterly Oil-Well-Test Report.* All information contained on this form shall be available.

2.6 *Form 9-1870—Semi-Annual Gas-Well-Test Report.* All information contained on this form shall be available.

2.7 *Multi-point Back-Pressure-Test Report.* All information contained in this report shall be available.

2.8 *Sales of Lease Production.* Information contained on the monthly U.S. Geological Survey computer printout showing sales volumes, value, and royalty on production of oil, condensate, gas, and liquid products by lease shall be made available.

2.9 *Availability of Inspection Records.* All accident-investigation reports, pollution-incident reports, facilities-inspection data, and records of enforcement actions are also available for public inspection.

2.10 *Availability of Data and Information Submitted by Lessees.* It has been determined that much information submitted by lessees, as a result of OCS Orders and OCS Notices to Lessees and Operators, is nonproprietary in nature or that release of such information is necessary for the proper development of the lease. This information will be made available for public inspection, except for those portions which the lessee shall designate, with the Supervisor's approval, as trade secrets and commercial or financial information which is privileged or confidential. The available information will include:

- a. Notices of support activity.
- b. Oceanographic and meteorological data collected from drilling units and production facilities during the period of operations.
- c. Results of site surveys required prior to drilling or placement of platforms or structures, such as shallow geologic hazards surveys, archeological/cultural resource surveys, or other surveys related to the placement of platforms or structures.
- d. Drawings, maximum environmental design criteria, and rated capability data of mobile drilling units and structures.
- e. Oil Spill Contingency Plans.
- f. Critical Operations and Curtailment Plans.
- g. Other data required under 30 CFR 250.34.

2.11 *Expired Leases.* All information is available upon the expiration of a lease.

3. *Information Exempt from Public Inspection.* The information in subparagraphs 2.1 through 2.4 which has been restricted from public inspection is classified as geological and geophysical data. The release of this data is subject to the following restrictions.

3.1 *Leases Issued Prior to June 11, 1976.* For leases issued prior to June 11, 1976, the classified data is exempt from disclosure under exemption No. (9) of the Freedom of Information Act (5 U.S.C. 552(b)(9) and 43 CFR 2.13 subsection (c), "Statutory Exemptions," (9)).

3.2 *Leases Issued After June 11, 1976.* For leases issued after June 11, 1976, the classified data is available in accordance

with 30 CFR 250.97, *Public Inspection of Records*, as follows:

a. *Geophysical Data.* Geophysical data shall not be available for public inspection, except as provided in 2.10c, without consent of the lessee as long as the lease remains in effect or for a period of 10 years after the date of submission, whichever is less, unless the Supervisor, with the approval of the Director, determines that earlier release of this information is necessary for proper development of the field or area.

b. *Geological Data.* Geological data shall not be made available for public inspection without the consent of the lessee as long as the lease remains in effect or for a period of 2 years after the date of submission, whichever is less, unless the Supervisor, with the approval of the Director, determines that earlier release of such information is necessary for the proper development of the field or area. In accordance with 30 CFR 250.38, *Well Records*, data and well records shall be transmitted to the Supervisor upon request or, if not requested, within 30 days following completion of suspension of any well.

For the purpose of orderly release of data, in all cases the date of submission will be considered to be 30 days following such completion or suspension.

4. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.12(b).

Rodney A. Smith,
Oil and Gas Supervisor, Arctic Area.

Approved:

Don E. Kash,
Chief, Conservation Division.

[FR Doc. 79-18419 Filed 6-12-79; 8:45 am]

BILLING CODE 4310-34-M

Wednesday
June 13, 1979

Part VI

**Advisory Council on
Historic Preservation**

Handicapped Access to Historic
Properties; Proposed Statement of
Program Approach

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Handicapped Access to Historic Properties; Proposed Statement of Program Approach

AGENCY: Advisory Council on Historic Preservation.

ACTION: Proposed Statement of Program Approach.

SUMMARY: The Advisory Council on Historic Preservation offers this proposed statement of program approach for public comment. This statement was developed to respond to the review of agency regulations concerning handicapped access required by the Department of Health, Education and Welfare as it relates to historic properties. Because of the special issues presented in rendering such properties accessible to the handicapped while still maintaining the architectural features that are the basis for their significance, the Council has drafted this statement in an effort to establish a workable approach to meeting both federal policies satisfactorily.

COMMENTS DUE: July 13, 1979.

ADDRESS: Comments should be addressed to the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Suite 510, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Peter Smith, Acting Director, Office of Intergovernmental Programs & Planning, 202-254-3495; Katherine Raub Ridley, Legal Assistant, Office of Intergovernmental Programs & Planning, 202-254-3495.

PREAMBLE: The Advisory Council on Historic Preservation is interested in the special problems presented in making historic properties accessible to handicapped persons. Under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), Federal agencies are required to publish regulations to ensure that federally assisted programs are accessible to the handicapped. Because historic properties will be affected through activities undertaken pursuant to such agency regulations, the Council believes there is a need to coordinate the Federal policies of access and historic preservation. Procedures that incorporate the program approach set forth below would ensure that activities undertaken to make historic properties accessible would not alter or destroy a historic property's significant features and would also serve as a basis for expediting agency responsibilities under

Section 106 of the National Historic Preservation Act.

The Council is an independent Federal agency established by the National Historic Preservation Act of 1966 (16 U.S.C. 470) to advise the President and the Congress on matters relating to historic preservation, and to review and comment on Federal, federally licensed and federally assisted undertakings that affect properties listed or eligible for the National Register of Historic Places. Under Section 202 of the Act, the Council is vested with general coordination and advisory responsibilities on historic preservation matters, including the conduct of studies, recommendations for legislation and the provision of training and educational programs. Under Section 106 of the Act, the Council must be afforded an opportunity for comment when Federal, federally licensed or assisted undertakings affect National Register or eligible properties. The process for obtaining the Council's comments is set forth in the recently amended regulations for "Protection of Historic and Cultural Properties" (36 CFR Part 800). In certain circumstances, building alterations or structural changes to National Register properties undertaken in order to accomplish accessibility may be subject to the provisions of Section 106 and therefore require the comments of the Council. In such instances, the comments must be requested by the undertaking Federal agency.

Because the significance of historic properties is often the result of architectural features and associational values, building alterations or structural changes may impair the qualities that qualify the property as significant. For example, various Federal programs provide funding for buildings in historic districts, which may consist of 18th century rowhouses, the front door of which is reachable only by a steep staircase and whose doorframe is too narrow for wheelchair entry.

Such features are often both the reason for the building's architectural significance and the consequent award of Federal funds for restoration, as well as the source of difficulty in providing access.

In rare cases, it is conceivable that a historic property could not be modified in a way which would allow both access and retention of significant features. This possibility has been the subject of considerable discussion. Opinion is divided as to whether, in such isolated cases, a waiver of access to a significant property would be appropriate.

This statement of approach is offered for public comment. It is expected that a final statement could serve as a basis for dealing with historically and culturally significant buildings in agency procedures implementing Section 504.

It is anticipated that technical guidelines on this subject will be published by the Technical Preservation Services Division, Office of Archeology and Historic Preservation, Heritage Conservation and Recreation Service, Department of the Interior. The guidelines will suggest appropriate treatments for specific problems commonly encountered in providing access to various types of historic buildings and structures through case studies.

Public comments are specifically requested on the following points.

(1) Among the alternatives to building alterations or structural changes, are any more or less preferable than others? If so, what is the general priority? For example, is use of an interpretive program about a second or third floor of a house museum preferable to provision for carrying?

(2) Are there particularly satisfactory solutions that have been found through experience with achieving access to historic structures?

(3) In the case of a private residence that has been awarded Federal funds for interior restoration work and may consequently be required to provide minimal public access, what is the most feasible form of access?

(4) Should a waiver of access be considered in certain circumstances where a historic property can not be rendered accessible without also impairing the qualities responsible for its significance? What criteria should be used to govern the decision? Proposed language is set forth in paragraph (4) below.

Statement: In the case of historic properties, program accessibility shall mean that when programs are viewed in their entirety, they are accessible to and useable by handicapped persons. A recipient of Federal assistance is not required to make building alterations or structural changes to historic properties where other methods are effective in achieving accessibility. The recipient shall make every effort to accomplish accessibility under Section (1). Only if there is no prudent and feasible alternative, shall a recipient consider building alterations (Section 2). A recipient shall exhaust Section 2 alternatives before proceeding to consider structural changes (Section 3). "Historic Properties" shall mean those properties listed or eligible for listing in

the National Register of Historic Places or architecturally, historically, or culturally significant properties designated under a statute of the appropriate State or local governmental body, including a single structure within a designated district.

(1) *Methods to Accomplish Program Accessibility without Building Alterations or Structural Changes.* The recipient shall investigate and utilize compliance methods which do not alter the historic character or architectural integrity of the property. Such methods may include, but are not limited to:

Reassigning programs to accessible locations within the facility.

Assigning persons to aid handicapped persons into or through an otherwise inaccessible facility.

Delivering programs or activities at alternative accessible sites operated by or available for such use by the recipient.

Adopting other innovative methods which comply with the intent of this section.

(2) *Methods to Accomplish Program Accessibility Resulting in Building Alterations.* Building alteration means those changes to the existing conditions and equipment of a building which do not involve any structural changes, but which typically improve and upgrade a building, such as alterations to stairways, doors, toilets, elevators, and site improvements.

The recipient must determine that program accessibility as outlined in section (1) above cannot be accomplished before considering building alterations. Building alterations shall be undertaken so as not to alter or destroy historically, architecturally, or culturally significant elements or features and shall comply with the "Secretary of the Interior's Standards for Rehabilitation" (36 CFR 67.7).

(3) *Methods to Accomplish Program Accessibility Resulting in Structural Changes.* Structural change means those changes which alter the structure of a historic building, including but not limited to its bearing walls and all types of post and beam systems in wood, steel, iron, or concrete.

The recipient must determine that program accessibility as outlined in sections (1) and (2) above cannot be accomplished before considering structural changes. Structural changes shall be undertaken so as not to alter or destroy historically, architecturally, or culturally significant elements or features and shall comply with the Secretary of the Interior's Standards for Rehabilitation (36 CFR 67.7).

(4) *Modification or Waiver of Accessibility Standards.* The applicability of agency accessibility

standards may be modified or waived on a case-by-case basis, where the recipient can demonstrate that, because of the nature of the activity, the provision of access would be infeasible or would substantially impair the historic, architectural, or cultural significance of the historic property.

Robert R. Garvey, Jr.,
Executive Director.

[FR Doc. 79-18429 Filed 6-12-79; 8:45 am]
BILLING CODE 4310-10-M

Wednesday
June 13, 1979

Part VII

**Department of the
Interior**

Fish and Wildlife Service

**Migratory Bird Hunting; Supplemental
Proposed Rulemaking**

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 20]

Migratory Bird Hunting; Supplemental Proposed Rulemaking

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Supplemental proposed rulemaking.

SUMMARY: This document supplements FR Doc. 79-4803, published on February 15, 1979, which notified the public that the U.S. Fish and Wildlife Service proposes to establish hunting season regulations for certain migratory game birds during 1979-80, and provided information on certain proposed regulations. Further information and clarification is provided relative to some regulatory items for which information was not available when the initial document was published. These relate to framework dates for waterfowl seasons; wood ducks; canvasbacks and redheads; zoning in Massachusetts, Pennsylvania, and Tennessee; certain goose seasons; the sandhill crane season in Colorado and areas in Wyoming; and several other issues.

DATES: All relevant comments received no later than June 21, 1979, for regulations proposed for Alaska, Puerto Rico, and the Virgin Islands will be considered. The comment period for early season proposed regulations will end on July 13, 1979, and that for late season proposals on August 20, 1979.

ADDRESS: Comments to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 202-254-3207.

SUPPLEMENTARY INFORMATION: On February 15, 1979, the Fish and Wildlife Service published for comment in the Federal Register (44 FR 9928) a proposal to amend 50 CFR Part 20. That document dealt with the establishment of seasons, limits and shooting hours for migratory game birds under §§ 20.101 through 20.107 of Subpart K of 50 CFR Part 20. In that document, the Service indicated that additional proposals and considerations developed after publication of 44 FR 9928 would be available for public review. Consequently, this supplemental

proposed rulemaking is the second in a series of proposed and final rulemaking documents for migratory bird hunting regulations effective during 1979-80. It deals specifically with a number of supplemental proposals and minor clarifications arising from comments received on the initial proposals, or from new information. These relate to framework dates for waterfowl seasons; wood ducks; canvasbacks and redheads; zoning in Massachusetts, Pennsylvania, and Tennessee; certain goose seasons; the sandhill crane season in Colorado and areas in Wyoming; and several other regulatory matters.

Review of Public Comments and the Service's Response

Forty-six letters dated on or prior to May 16, 1979, the closing date of the public comment period for the February 15, 1979, proposals, were received by the Service. These included letters from 20 State or Commonwealth conservation agencies, 16 from individuals, 7 from organizations, and 3 from waterfowl flyway councils. In some instances, the letters did not specifically mention the open comment period or regulatory proposals. However, because they were received during the comment period and generally related to migratory bird hunting regulations, they were treated as comments. Many communications addressed two or more topics, and in some cases, subjects outside the scope of regulations under consideration. An example of the latter are hunting season dates which are actually selected by State conservation agencies within the Federal framework. Of the letters, 8 (5 from State conservation agencies and 3 from individuals) concurred with the proposals and offered no other suggestions. The remaining communications recommended modifications to the proposals, or new considerations.

General.

Comments on the procedures followed by the Service in developing the annual hunting regulations were received from Defenders of Wildlife (Defenders) and the Institute for Public Representation (Institute) of the Georgetown University Law Center, Washington, D.C., which identified itself as representing Defenders. Similar views were expressed by Defenders in a letter dated January 17, 1979, prior to the opening of the first comment period on regulations being proposed for the 1979-80 migratory bird hunting season. In essence, Defenders and the Institute asserted that consultations and communications between the Service

and the four flyway councils during preparation of the hunting regulations are contrary to the Federal Advisory Committee Act, 5 U.S.C. App. 1, and to several court decisions dealing with *ex parte* communications in informal rulemaking. The two organizations recommended several changes in the Service's procedures for issuing the hunting regulations, including abandonment of Service/Flyway Council consultation activities.

Response. In reply to these claims by Defenders, Mr. James D. Webb, the Department's Associate Solicitor for Conservation and Wildlife, stated in a letter dated May 7, 1979:

"After a careful review and study of the points raised in your letter, I have concluded that the Flyway Councils are not functioning as 'advisory committees' within the meaning of the Federal Advisory Committee Act. The Councils were not established as advisory committees by statute, reorganization plan, or the Service, nor are they being utilized in that capacity by the Service.

I have also concluded that the Service's contacts with the councils are in compliance with the requirements applicable to *ex parte* communications during informal rulemaking. In this regard, it is my understanding that communications between the Service and the Councils that relate to the substance or merits of the hunting regulations will be placed promptly in the public file for the regulations. In the case of written communications, the documents themselves will be placed in the public file. In the case of oral communications, written summaries which identify the source will be placed in the file."

In its comments, Defenders reiterated its concerns about a number of specific migratory bird subjects including waterfowl shooting hours, the hunting of mourning doves in September, and the status of certain species including the Tule white-fronted goose, canvasback, mallard, black duck, ring-necked duck, scaup, mergansers, sea ducks, goldeneye, and bufflehead. Defenders again recommended that shooting hours commence one-half hour after sunrise and end one-half hour before sunset so that hunters would have adequate light by which to identify birds in flight. An experiment for testing hunter ability to identify waterfowl was suggested.

Response. As noted previously (see 44 FR 9928, February 15, 1979) the matter of shooting hours was extensively reviewed and discussed during the regulatory process for the 1977-78 hunting season, including preparation of an environmental assessment made available to the public in August 1977. Copies of the assessment are still available upon request to the Office of Migratory Bird Management, U.S. Fish

and Wildlife Service, Department of the Interior, Washington, D.C. 20240. The Director, U.S. Fish and Wildlife Service, concluded on the basis of this assessment that the proposed shooting hours did not constitute a significant impact on the environment. Additional studies were initiated during the 1978-79 hunting season to evaluate the impact of shooting hours, running from one-half hour before sunrise to sunset, on protected species. These studies will be continued during the 1979-80 waterfowl hunting season. Also, cooperative State-Service studies were initiated last year to further evaluate the effects of hunting upon September dove nesting. These studies will continue for at least one more year. An environmental assessment on September dove hunting was prepared by the Service and made available to the public on July 18, 1977. Copies of the assessment are still available upon request to the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Defenders' concerns about the status of specific waterfowl were summarized and discussed last year in the Federal Register (see 43 FR 22422; May 25, 1978). Most of the species they mention (see above) were addressed at that time. Others were addressed in the proposals published on February 15, 1979 (44 FR 9928), at which time it was noted that further studies or data gathering efforts were presently underway. Thus, consideration has been or is being given to all the species mentioned.

Substantive supplemental proposals and recommendations from the flyway councils, State conservation agencies, and other organizations, and individuals are addressed below under the specific numbered regulations categories listed in 44 FR 9928, February 15, 1979. Only those numbered items for which changes are proposed, or on which substantive comment was received, are listed.

Supplemental Proposals

The following proposals and other modifications are numbered to correspond with the numbered items published in the Federal Register of February 15, 1979.

1. *Shooting hours.* As noted previously, Defenders opposed retention of shooting hours for waterfowl extending from one-half hour before sunrise to sunset. The Mississippi Flyway Council and several States urged retention of these shooting hours. One hunter requested that consideration be given to establishing "standardized" shooting hours which would not change

each day in reference to times of sunrise and sunset.

Response. As noted above, the issue of shooting hours has been discussed at length in an environmental assessment and in previous Federal Register publications. In summary, the Service has found no evidence that those portions of the shooting hours, to which objection is made, have a significant adverse effect on protected species. See the Federal Register dated March 10, 1977 (42 FR 13313) and July 22, 1977 (42 FR 37552) for further details. It is the view of the Service that no general modification of shooting hours is necessary or desirable at this time. The Service observes that time of day is not the only factor affecting ability of hunters to identify ducks in flight. Effective utilization of the point system to take advantage of low point birds requires that hunters defer shooting until they have identified the birds to be shot at. This requires judgment on the part of each individual hunter as to the exercise of his skills under different hunting circumstances. The Service notes that a number of States have established "standardized" shooting hours to which there is no objection as long as the actual shooting times are within the one-half hour before sunrise to sunset period. The Service does not consider it necessary or desirable to prescribe such arrangements by Federal regulation.

2. *Framework dates for ducks and geese in the continental United States.* The Upper Region of the Mississippi Flyway Council proposed that season framework dates for its member States begin with the Saturday closest to October 1 instead of October 1 (see Iowa, below), and end on the Saturday closest to January 20 instead of January 20. Also supporting the opening of the framework on the Saturday closest to October 1 was a petition submitted on behalf of 90 Minnesota waterfowl hunters, and a communication from the Minnesota Waterfowl Association, Inc.

Response. The Service notes that these framework dates are similar to those in the Central and Pacific Flyways. The Service proposes to consider this change based on further information and consultation with affected States and others.

Iowa proposed and the Upper Region of the Mississippi Flyway Council endorsed that it be permitted to hunt ducks for several days during the period September 20 through September 30; the days taken during this period to be subtracted from the total days allocated for the regular waterfowl hunting season which customarily begins no earlier than October 1. All ducks which may legally

be taken during the regular season could be taken during the September period but the primary objective is to provide opportunity to harvest blue-winged teal which migrate early and are generally not available in Iowa during the regular season dates. The proposal was initiated by Iowa in 1978 as an alternative to the special September teal season available to some States but not to Iowa or other designated waterfowl production States. It was deferred pending further consideration by the Council and the Service. If approved, it would be subject to a three-year evaluation.

Response. The Service is of the view that this proposal should be considered for implementation on a trial basis in Iowa, on the grounds that it appears to have merit as a potentially desirable alternative to the special September teal season. The Service will consult further with Iowa regarding more specific details and will consider other comments and views on the matter.

The Lower Region of the Mississippi Flyway Council generally endorsed season framework dates of October 1 through January 20 for its member States but recommended that the framework date for Mississippi be extended to January 31, 1980, on an experimental basis. The recommendation is based on a belief that the migration of mallards and wood ducks into that State has been delayed in recent years because of agricultural and management practices in the northern United States. The Council recommended that the relaxation in Mississippi, if allowed, be monitored by a plan mutually agreeable to the Service and Mississippi. Alabama also wrote that it favored a duck hunting season framework which would run to the end of January. However, the Council recommendation is limited to the State of Mississippi.

Response. This recommendation will be given further consideration by the Service based on additional information and consultation with the State and the Flyway Council and comments from other interested parties.

Several other comments related to framework dates. Several hunters urged that seasons opening in September be permitted. One hunter asked that the waterfowl season be left unchanged.

A northern Michigan hunter requested that earlier goose seasons be allowed as the bulk of the migration has passed by the time the season opens. Maine urged that the Wednesday noon opening be reinstated on the ground that it would reduce opening day hunting pressure for the benefit of the resource and the public. No Atlantic Flyway Council

recommendation on the subject was received.

Response. The Service will further consider these recommendations based on additional information, and consultation, and in the light of comments from interested parties.

One individual in the Pacific Flyway expressed opposition to waterfowl seasons which in some years extend to January 23 on the ground that such seasons may have an adverse effect on duck breeding behavior.

Response. The Service has no information to indicate that such seasons are adverse to breeding duck biology. Further, duck populations in the Pacific Flyway have remained at generally satisfactory levels for many years, varying mainly as a result of changes in habitat quality and quantity.

4. *Wood ducks.* The Lower Region of the Mississippi Flyway Council has proposed that Kentucky, Mississippi, and Tennessee hunters be permitted to take two wood ducks during the special September teal season in addition to the four teal normally allowed. The main purpose of the request is to allow additional harvests of southern wood ducks, which appear to be subjected to low hunting pressure, prior to the influx of wood ducks breeding in northern areas. In support of the request, Kentucky has stated that the wood duck population in its State is very satisfactory, the species comprises less than 5 percent of the statewide duck harvest, and that additional opportunity for legal harvest of wood ducks is desirable.

Response. A similar proposal was presented along with justification by Tennessee in 1978. The Service is of the view that, pending more thorough and extensive review and consideration involving other States that participate in special September teal seasons, it is inadvisable at this time to expand such seasons to include species other than teal. An alternative approach to providing additional opportunity to harvest wood ducks produced in southern breeding areas is presently available. During the 1978-79 season, southern States in the Atlantic Flyway (Florida, North Carolina, South Carolina, and Virginia) and the Mississippi Flyway (Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, and Tennessee) were allowed to designate, experimentally, up to 9 days of their regular duck season between October 1 and October 15, during which no special bag limit restrictions were placed on wood ducks. It is anticipated that this option will be continued in the 1979-80 hunting season.

11. *Canvasback and redhead ducks.* In the Federal Register dated February 15, 1979 (44 FR 9934), the Service announced receipt of a proposal from Virginia on behalf of the Atlantic Flyway Council. The proposal would provide for a subseason of 8 to 15 days on male canvasbacks and male redheads in portions of Virginia, Maryland, New York, and North Carolina where canvasbacks normally winter. In States selecting the point system, males of these species would be assigned 25 points; in States selecting conventional regulations, four male birds singly or in the aggregate of these species could be taken within the overall bag limit. A more recent communication from the Atlantic Flyway Council endorsed the proposal and provided additional details.

Response. The Service will further review the proposal and consider this on the basis of additional information and consultation and in the light of comments from interested parties.

The Central Flyway Council recommended that North Dakota and South Dakota be permitted the option of one canvasback or one redhead per day under conventional regulations or allocations of 100 points each for canvasbacks and redheads in the daily bag and possession limits statewide under the point system, except that specific areas of high canvasback use be closed to all duck hunting.

Response. The Service does not presently favor this proposal because: (1) No criteria are given for designating the areas of high canvasback and redhead use; (2) the prohibition of all duck hunting on these areas may represent an excessive and unnecessary restriction; and (3) the current year's survey data are not yet available for consideration. The Service favors continued use of the area closure concept should the results of the current year's surveys justify continued special protection of the two species.

Two other public comments were received on these species. Defenders of Wildlife expressed general concern about the status of canvasbacks. A sportsmen's club in Minnesota requested that consideration be given to abolishing the canvasback and redhead closure area in Sibley County, Minnesota, because few ducks of these species migrate through the area during the fall.

Response. The Service notes that hunting regulations for these species will be proposed later after all available information on breeding population size, habitat conditions, current production and harvest has been assembled and

evaluated. Additional information is being solicited on the abundance and distribution of the two species in Sibley County.

12. *Zoning.* In the Federal Register dated February 15, 1979, the Service proposed to continue offering States in the Atlantic and Mississippi Flyways the option to divide their States into two zones for the purpose of establishing differential, full-length hunting seasons. The criteria for the experimental zoning studies were also described in detail.

Massachusetts proposes to initiate a zoning study which would meet the Service's criteria (also see "Other" item). The request is supported by a detailed plan, copies of which are available from the Massachusetts Division of Fisheries and Wildlife. Under the proposal, coastal and inland hunting zones would be established.

Pennsylvania asked that it be permitted to experimentally designate a Lake Erie Waterfowl Hunting Zone, defined as the Pennsylvania waters of Lake Erie and the adjoining land 150 yards inland from the Lake Erie shoreline. This request was also supported by a detailed plan, copies of which are available from the Pennsylvania Game Commission.

Tennessee, through the Lower Region of the Mississippi Flyway Council, asked that it be permitted to participate in experimental zoning of duck seasons in Lake and Obion Counties (or restricted areas in these counties) and the remainder of Tennessee. Ducks migrate into and depart from the Reelfoot Lake area earlier than elsewhere in Tennessee. Supporting data and information are given in a report available from the Tennessee Department of Wildlife and Fisheries.

Response. The Service has the zoning requests for Massachusetts, Pennsylvania, and Tennessee under consideration and will defer action for now pending additional information, consultation and comments from interested parties.

Two communications from the Chautauqua Lake Area Waterfowlers, New York, were critical of the duck seasons in effect during recent years because they did not coincide with peaks of waterfowl abundance.

Response. By agreement between the Service and the State, New York embarked upon a zoning study in the 1978 hunting season in which duck hunting seasons are set separately for three different zones in the upstate area of the State. The study is still underway and depending on its continuation, it appears that ample opportunity is available for the selection of season

dates desired by most hunters in each zone.

The Upper Region of the Mississippi Flyway Council recommended that Ohio be permitted to split its waterfowl seasons within each of its two zones for a new three-year experimental period commencing with the 1979-80 season. This change would enable seasons to be set to coincide with the availability of locally produced wood ducks and migrant waterfowl.

Similarly, the Upper Region of the Mississippi Flyway Council recommended that Illinois be permitted to establish its goose season in its South Zone and outside the Canada goose quota zone to run concurrently with the regular duck season. This change would simplify hunting regulations in most of the South Zone but not markedly alter the harvest of Canada geese, which occurs in the four southern counties comprising the quota zone. This modification would also be evaluated for a 3-year period.

Alabama reiterated its request that it be permitted to split the duck season in its South Zone, which is comprised of Baldwin and Mobile Counties. The Lower Region of the Mississippi Flyway Council offered no views on the proposal.

Response. The Service will consider these proposals for implementation in the 1979-80 hunting season based on further information, consultation, and comments from interested parties.

Two hundred ten persons signing a single petition requested the Service to change the boundary separating the North and South Zones of Missouri. They requested that the Lake of the Ozarks Region be transferred from the North to South Zones, stating that waterfowl do not migrate to the area until after the hunting season in the North-Zone terminates.

Response. The Service notes that the three-year zoning study in Missouri will be going into its third year this season and that for evaluation purposes the zone boundaries should not be changed until the study period has ended and all available information examined.

13. *Goose and brant seasons.*—a. *Atlantic Flyway.* New Jersey has proposed that the snow goose season be continued at 70 days but that the daily bag limit be increased from 2 to 5. This is similar to a 1978 proposal by New Jersey and is based on a belief that the population is increasing and is beyond the capacity of wintering habitat to support it, resulting in damage to marshlands, crop depredations, starvation among the snow geese, and conflicts with other species. Delaware

recommended that the season framework for snow geese be extended to January 31 and increased from 70 to 90 days so that the hunting season could be selected to better coincide with the period during which these geese damage agricultural crops and saltmarshes, and be contiguous with the 90-day hunting season for Canada geese in the Delmarva area. A representative of a New Jersey waterfowlers' association also favored raising the daily bag limit of snow geese to 5 birds as a means of generating additional hunting interest to control the population expansion.

Response. The Service is of the view that changes in seasons and bag limits for these geese should be considered in the light of information on production success which will not be available until later in the year. These geese nest in high Arctic areas where snow and ice conditions sometimes greatly limit annual production. Action on this request is deferred pending receipt of additional information on 1979 production.

New Jersey also proposed that Canada goose seasons and bag limits, extended to 90 days and 4 birds daily in southern New Jersey last year, be applied Statewide based on a belief that there are throughout the State increasing complaints about crop depredations.

Response. The same response provided above for the relaxation of snow goose regulations are also pertinent to this proposal for Canada geese. In addition, the Service believes that additional rationale and data should be provided to support New Jersey's recommendation for statewide application of more liberal Canada goose regulations.

b. *Mississippi Flyway.* For the Mississippi Valley Population (MVP) of Canada geese the Upper Region of the Mississippi Flyway Council has proposed harvest quotas in Illinois and Wisconsin in 1979 of 35,000 birds, a reduction from the 50,000 bird quota in effect last season.

Response. The Service customarily considers harvest recommendations from the Councils in the process of establishing hunting regulations for the MVP and certain other populations of Canada geese where the councils take the lead in acquiring information and monitoring the status of the populations involved. The Service has reviewed and concurs with the above proposal which is consistent with recommendations of the Council's MVP Committee, and with a flyway management plan recently developed for this population.

The Lower Region of the Mississippi Flyway Council has proposed that the

harvest quota of 15,000 birds for MVP Canada geese in Kentucky be eliminated in accordance with a request from Kentucky because it has not been attained in past years. Kentucky would continue to monitor harvests in Ballard County where most of the goose hunting and harvest occurs.

Response. The Service will give further consideration to this proposal but is of the view that the harvest quota should be retained since it will not unduly restrict harvest in Kentucky.

c. *Central Flyway.* A South Dakota hunter has proposed that South Dakota be permitted to establish goose hunting zones in response to changes in goose distribution and migration apparently caused by reservoirs on the Missouri River, irrigation, and increased corn production.

Response. It appears that this proposal relates primarily to harvest management of the so-called Western Prairie Population of Canada geese. A management plan for this population was recently completed by the Service and the Canadian Wildlife Service and endorsed by the Central Flyway Council. The Service is of the view that the objectives outlined in the plan should provide the basis for any changes in management strategies, including zones, seasons, and harvests. At present the need for separate hunting zones is unclear.

d. *Pacific Flyway.* In the Federal Register dated February 15, 1979, the Service proposed goose seasons and limits generally similar to those in effect the previous year but stated that specific proposals would depend upon more current data and information. The Service also noted concern about the status of lesser snow geese which breed on Wrangel Island, U.S.S.R., and white-fronted geese. Also, it is possible that consideration of additional information for the endangered Aleutian Canada goose may require modifications in the protective measures recently in effect. The Service solicits further information on these various geese.

14. *Whistling swans.* Delaware has recommended that the Service prepare an environmental assessment to document the advisability of a hunting season on whistling swans in portions of the Atlantic Flyway.

Response. While the Service believes the hunting of whistling swans in portions of the Atlantic Flyway may be biologically justifiable, there is not, at this time, a consensus that hunting should be initiated and it does not appear to be a high priority management need.

15. *Sandhill cranes.* Colorado has requested that it be permitted to set its 37-day sandhill crane hunting season within the framework of the Saturday closest to October 1 and the Sunday closest to November 20. The slightly later season possible under this framework would better coincide with the presence of sandhill cranes in eastern Colorado. In recent years the Colorado harvest has averaged about 100 birds and it appears that this modification should result in little additional harvest. No whooping cranes have been observed in eastern Colorado in recent years, and the San Luis Valley where whooping cranes of the Grays Lake, Idaho, population stage during their fall migration, would remain closed to hunting.

Sandhill crane hunting in Wyoming is restricted to Goshen and Platte Counties in the eastern part of the State. Wyoming has requested that the eastern counties of Crook, Laramie, Niobrara, and Weston be added to this area, that the season be extended from 30 to 37 days, and that the framework be the same as that requested by Colorado. The Wyoming harvest of sandhill cranes has been only about 10 birds annually in recent years.

Response. The Service proposes to further consider these recommendations, taking into account any additional information and comments that may be developed.

20. *Woodcock.* Maine repeated its concern about the status of this species in the northeast, and suggested that consideration be given to shortening the hunting season framework in the Atlantic Region.

Response. The Service is aware of recent concern about the status of the woodcock population in the Atlantic Region. Investigations have recently been initiated aimed at better understanding their status and factors that may be affecting it. The Service is of the view that pending further progress with the investigation it would be desirable to avoid manipulations, including changes in hunting regulations, that might unnecessarily complicate interpretation of findings.

21. *Band-tailed pigeons.* California has requested that Alpine County be added to the 13 northern California counties which are offered an early hunting season for band-tailed pigeons. The area is frequently subjected to snowfall in late October which restricts harvest opportunities when late seasons are set.

Response. The Service is of the view that this change in California would be of little or no consequence in regard to

the status of the Coastal band-tailed pigeon population. Consideration will be given to making this change pending additional information and comment.

22. *Mourning doves.* This February (44 FR 9936), the Service proposed to retain the same regulations which were in effect during the 1978-79 hunting season. Defenders of Wildlife repeated its concern about the hunting of mourning doves in September.

Response. As noted earlier, an environmental assessment has been prepared on dove hunting in September. Defenders' concerns have been addressed repeatedly in the Federal Register in the past, and the Service has embarked upon a cooperative nationwide study of mourning dove nesting in September and throughout the year. Information gathered in 14 States in 1978 indicates a mean daily survival rate of eggs and nestlings on hunted areas of 95.2 percent compared with 95.4 percent on non-hunted areas. This study is still underway. The Service is of the view that any changes in hunting regulations that might be considered should be based on the findings of the study.

25. *Migratory game birds in Puerto Rico and doves and pigeons in the Virgin Islands.* The Virgin Islands Department of Conservation and Cultural Affairs has requested that the proposed season framework for the Zenaida dove (*Zenaida aurita*) be changed to permit hunting prior to September 1.

Response. The Service notes that the provisions of the U.S.-Canada migratory bird treaty and the Migratory Bird Treaty Act prohibit hunting of designated migratory game birds, including the Zenaida dove, between March 10 and September 1 each year. A solicitor's opinion rendered in 1976 concluded that these treaty restrictions also applied to the Virgin Islands and Puerto Rico. These provisions appear to preclude consideration of the Department's request.

26. *Migratory game bird seasons for falconers.* In response to the Service's proposal to retain regulations in effect the past year, Maryland urged that consideration be given to allowing extended falconry seasons outside the framework dates applicable to other hunters using other means of taking. No other comments were received.

Response. The Service is of the view that it is desirable to maintain the previously established frameworks for several years in order to facilitate evaluation of falconry hunting seasons. It does not appear that this causes any significant hardship to falconers.

27. *Hawaii mourning doves.* The Hawaii Division of Fish and Game has requested that consideration be given to removing several migratory bird species found in Hawaii from the designated list of U.S. migratory game birds. The involved species, although legally defined as migratory, do not make true migratory movements in Hawaii. Justification for the request is that Hawaii would then have greater flexibility in setting hunting regulations for the mourning dove, the only migratory species in Hawaii for which hunting is allowed.

Response. The Service notes that the designated list of migratory game birds is based on species or groups of species identified and included in international migratory bird treaties with Canada, Mexico, Japan, and the U.S.S.R. The Service has no authority to make changes in the species covered.

Other. Massachusetts has requested that as an alternative to zoning, under which separate waterfowl hunting seasons may be set in different designated zones within States, it be permitted to divide a statewide waterfowl season into three segments, the request, if accepted, would be subject to a three-year evaluation. The State envisions that the three-way split season would result in no significant change in waterfowl harvest but would better satisfy hunters. Delaware supported the request that 3-way duck hunting season splits be permitted as an alternative to zoning.

Response. The Service proposes to consider this request for implementation on a trial basis on the ground that it appears to have merit as a potentially desirable alternative to zoning. A decision on this matter will be guided by additional information, consultation, and comment from interested parties.

Two individuals submitted comments on the point system as a means of establishing daily bag limits for waterfowl hunting. One individual recommended against the system and urged that it be abandoned because the order in which birds are taken influences the permissible number of birds allowed hunters. The second individual objected to apparent inequities between the number of canvasbacks and redheads which can be taken under point system and conventional regulations.

Response. The Service has recognized the problem for some time. There is no indication, however, that the point system has significantly increased the overall duck harvest. The Service believes that both conventional and point system options should be made

available to hunters in the three eastern flyways.

The Service notes further that it is not intended nor is it practical to make the point system exactly comparable to conventional regulations in terms of overall bag limits or bag limits for individual species. While the point system has some liberal aspects not possessed by conventional regulations, other aspects are more restrictive because of the way that birds already bagged count against the opportunity to bag others. From a practical standpoint, the inequities mentioned above are more apparent than real.

One individual recommended that the hunting season be closed on snow geese, without noting whether the lesser or greater snow goose was of particular concern.

Response. In either case, these species appear to be in excellent population status and the Service is of the view that there is no justification for closed seasons.

Public Hearings

The regulatory schedule published in the Federal Register dated February 15, 1979 (44 FR 9928), provided information on the two public hearings scheduled for reviewing the proposed 1979-80 hunting regulations and obtaining further public comments and recommendations. In order to further publicize these meetings, details on their date, location, and time are repeated.

Two public hearings pertaining to migratory bird hunting regulations being considered for the 1979-80 hunting seasons are scheduled. Both meetings will be conducted in accordance with 455 DM 1 of the Departmental Manual. On June 21 a public hearing for reviewing proposed hunting regulations for species for which early (opening prior to September 29) seasons are set will be held at 9 a.m. in the Auditorium of the Department of the Interior Building, on C Street, between 18th and 19th Streets NW., Washington, D.C. This hearing is scheduled primarily for the purpose of reviewing the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, rails, gallinules, and common snipe, and discussing proposed hunting regulations for these species plus regulations for sandhill cranes in some States; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons; and special sea duck seasons in the Atlantic Flyway. On August 2 a public hearing for reviewing the status of other waterfowl and consideration of proposed regulations for those

waterfowl and other migratory game birds for which regulations were not previously formulated will be held at 9 a.m. in the Auditorium of the General Services Administration Building, F Street, between 18th and 19th Streets NW., Washington, D.C. These deliberations will pertain to hunting seasons commencing September 29 or later. The public is invited to participate in both hearings.

Persons wishing to participate in these hearings should write the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, or telephone 202-254-3207. Those wishing to make statements should file copies of the statements with the Director before or during each hearing.

Public Comments Solicited

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public, other concerned government agencies, and private interests on these proposals.

Final promulgation of migratory bird hunting regulations for the continental United States, Puerto Rico, the Virgin Islands, and Hawaii for the 1979-80 season will take into consideration all comments received by the Director. Such comments, and any additional information received, including consideration of the Endangered Species Act of 1973, may lead the Director to adopt final regulations differing from these proposals. Interested persons are invited to participate in this rulemaking by submitting written comments on these supplemental proposals to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's office in Room 525A, Matomic Building, 1717 H Street, NW., Washington, D.C.

The comment period for the Service's initial proposals for the 1979-80 hunting regulations was open for 90 days, and ended on May 16, 1979. The Service is of the view that the public should be given the greatest possible opportunity to comment upon proposed regulations; however, it is essential that certain deadlines be met if the annual regulations are to be finalized and cooperating agencies and the public be informed of them. State conservation agencies proclaim companion hunting regulations, within Federal frameworks, and often must conduct public hearings, provide notices of proposed regulations

for public comment, and print and distribute their regulations. Satisfying these requirements necessitates shorter public comment periods for the Service's supplemental proposals, particularly those which must be finalized early because of seasons opening in September. Consequently, the Service finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, for shorter comment periods. Accordingly, the Service prescribes the following public comment periods for these proposed supplemental regulations.

All relevant comments received no later than June 21, 1979, for regulations proposed for Alaska, Puerto Rico, and the Virgin Islands will be considered. The comment period for early season proposed regulations will end on July 13, 1979, and that for late season proposals on August 20, 1979. The Service will attempt to acknowledge received comments, but substantive response to individual comments may not be provided.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75-54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the Federal Register on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement.

Endangered Species Act Consideration

Prior to finalization of the 1979-80 migratory game bird hunting regulations, consideration will be given to provisions of the Endangered Species Act of 1973, and as amended, (16 U.S.C. 1531-1543; hereinafter the act) to insure that hunting does not jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and is consistent with the conservation programs for those species. Consultations under section 7 of this act may cause changes to be made to proposals in this and future supplemental proposed rulemaking documents.

Non-toxic Shot Regulations

On January 12, 1979, the Service published in the Federal Register (44 FR 2629) proposed rules describing non-toxic shot zones for waterfowl hunting for hunting seasons commencing in 1979.

The intended effect of these non-toxic shot zones is to reduce the number of deaths to waterfowl caused by eating spent lead pellets. The final regulations will be published in the Federal Register shortly under § 20.108 of 50 CFR and will also be summarized in the Service's waterfowl regulations leaflets to be published late this summer.

Authorship

The primary author of this proposed rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Exception From Executive Order 12044 and 43 CFR Part 14

As discussed in the Federal Register dated February 15, 1979 (44 FR 9929), the Assistant Secretary for Fish and Wildlife and Parks has concluded that the ever decreasing time frames in the regulatory process are mandated by the Migratory Bird Treaty Act and the Administrative Procedure Act. The regulatory process simply has no remaining slack in its timetable between the accumulation of critical summer survey data and the publication of the revised sets of proposed rulemakings. Compliance with the determination of significance and regulatory analysis criteria established under Executive Order 12044 would simply not be possible if the fall hunting season deadlines are to be achieved.

Consequently, the Assistant Secretary for Fish and Wildlife and Parks has approved the exemption of these regulations from the procedures of Executive Order 12044 and 43 CFR Part 14 which is provided for in section 8(b)6 and § 14.3(f), respectively.

Dated: June 8, 1979.

Lynn A. Greenwalt,
Director, Fish and Wildlife Service.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

- 59986 12-22-79 / Nonclinical laboratory studies; good laboratory practice regulations

Next Week's Deadlines for Comments on Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

- 28806 5-17-79 / Apples grown in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont; Recommended decision; comments by 6-18-79

- 31189 5-31-79 / Fresh pears, plums, and peaches grown in California; proposed extension of grade and size requirements; comments by 6-19-79

- 31023 5-30-79 / Fresh pears, plums, and peaches grown in California; proposed extension of grade and size requirements; comments by 6-22-79

Animal and Plant Health Inspection Service—

- 24863 4-27-79 / Importation of horses; comments by 6-19-79

Commodity Credit Corporation—

- 29905 5-23-79 / Tobacco Loan Program; 1979 crop grade loan rates for flue-cured tobacco; comments by 6-22-79

[Corrected at 44 FR 30690, 5-29-79]

Farmers Home Administration—

- 23536 4-20-79 / Insured emergency loans; policies, procedures, authorizations; comments by 6-19-79

Federal Grain Inspection Service—

- 20164 4-4-79 / Grain standards; comments by 6-18-79

Forest Service—

- 22759 4-17-79 / Procedures for involving public formulation of standards criteria, and guidelines that apply to Forest Service programs; comments by 6-18-79

- 22746 Rural Electrification Administration—
4-17-79 / Rural Telephone Program; proposed revised bulletin; comments by 6-18-79

Soil Conservation Service—

- 25786 5-2-79 / Compliance with NEPA; general procedure; comments by 6-18-79

CIVIL AERONAUTICS BOARD

- 30104 5-24-79 / Air Carrier certificates; removal of restrictions; comments by 6-22-79

- 26121 5-4-79 / Direct marketing of charters by air carriers; comments by 6-18-79

- 18689 3-29-79 / Domestic Passenger-Fare Rulemaking to U.S. Mainland-Hawaii and Intra-Hawaii ratemaking entities; extension of developed policies; comments by 6-19-79

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

- 29136 5-18-79 / Additions to procurement list 1979; comments by 6-20-79

DEFENSE DEPARTMENT

Engineers Corps—

- 30288 5-24-79 / Implementation of water resource plans; evaluation of national economic development employment benefits; comments by 6-22-79

ENERGY DEPARTMENT

Economic Regulatory Administration—

- 27668 5-11-79 / Natural gas use by existing powerplants, temporary public interest exemption; comments by 6-22-79

- 22974 4-17-79 / Submission of reports to DOE by State regulatory authorities and nonregulated electric and gas utilities; comments by 6-18-79

Federal Energy Regulatory Commission—

- 29090 5-18-79 / Alternative fuel cost ceilings on incremental pricing under Natural Gas Policy Act of 1978; comments by 6-19-79

- 29101 5-18-79 / Natural Gas Policy Act of 1978, procedures to access civil penalties for knowing violations; comments by 6-18-79

ENVIRONMENTAL PROTECTION AGENCY

- 23885 4-23-79 / Attainment status redesignation request by State of Maryland; comments by 6-22-79
- 17310 3-21-79 / Clean Air Act; assessment and collection of noncompliance penalties; comments by 6-19-79
- 29933 5-23-79 / Proposed approval of administrative order issued by Connecticut Department of Environmental Protection to Housatonic Ever-Float Co.; comments by 6-22-79
- 29934 5-23-79 / Proposed approval of administrative order issued by the Commonwealth of Kentucky, Department for Natural Resources and Environmental Protection to Southwire Aluminum; comments by 6-22-79
- 29936 5-23-79 / Proposed approval of administrative order issued by Connecticut Department of Environmental Protection to Deitsch Laminating Co., Inc.; comments by 6-22-79
- 29932 5-23-79 / Texas emission offsets; approval and promulgation of implementation plans; comments by 6-22-79

FEDERAL COMMUNICATIONS COMMISSION

- 24587 4-26-79 / Allen, S. Dak., TV broadcast table of assignments; comments by 6-18-79
- 29127 5-18-79 / Aviation and marine services, use of marine VHF frequencies by aircraft; comments by 6-18-79
- 21021 4-9-79 / Changes in the rules relating to noncommercial education FM broadcast stations; reply comment date extended to 6-18-79
[Originally published at 43 FR 27682; 4-26-78]
- 21044 4-9-79 / FM broadcast station Ava, Ill.; proposed changes in Table of assignment; reply comments by 6-21-79
- 21045 4-9-79 / FM broadcast station in Beloit, Kans.; proposed changes in table of assignments; reply comments by 6-21-79
- 21046 4-9-79 / FM broadcast station in California, Missouri; proposed changes in table of assignments; reply comments by 6-21-79
- 21047 4-9-79 / FM broadcast station in Palmyra, Mo.; proposed changes in table of assignments; reply comments by 6-21-79
- 30134 5-24-79 / Marine vessel steering stations; availability of compulsory radiotelephone equipment; comments by 6-18-79
- 24588 4-26-79 / Nev. and Mo. FM broadcast table of assignments; comments by 6-18-79
- 25245 4-30-79 / Reconsideration of provisions on applications for certificates of compliance and Federal-State/local regulatory relationships; comments by 6-18-79
- 25244 4-30-79 / Television broadcast station in Dayton, Ohio; changes in table of assignments; comments by 6-18-79
- 21048 4-9-79 / Television broadcast station in Dillingham, Alaska; proposed changes in table of assignments; reply comments by 6-21-79
- 21050 4-9-79 / Television broadcast station in San Jose, Calif.; proposed changes in table of assignments; reply comments by 6-21-79
- 24589 4-26-79 / TV broadcast station in Orange Park, Fla., comments by 6-18-79

FEDERAL RESERVE SYSTEM

- 23865 4-23-79 / Application of Equal credit opportunity to credit scoring; comments by 6-20-79
- 24864 4-27-79 / Bank holding companies and changes in bank control; comments by 6-20-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Education Office—

- 23888 4-23-79 / Eligibility of foreign medical schools under guaranteed student loan program; comments by 6-22-79

Food and Drug Administration—

- 23044 4-17-79 / Reimbursement for participation in administrative proceedings; comments by 6-18-79
- 22752 4-17-79 / Requirement for Estrogens labeling directed to the patient; comments by 6-18-79
- 23539 4-20-79 / Sodium stearoyl-2-lactylate; food additive provisions; comments by 6-19-79
- Health Care Financing Administration—
- 23095 4-18-79 / Medical Assistance Program; Reasonable cost-related reimbursement for skilled nursing and intermediate care facility services; comments by 6-18-79

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

- 23094 4-18-79 / Mutual mortgage insurance and insured home improvement loans; proposed mortgagee approval eligibility requirement; comments by 6-18-79
- Office of Assistant Secretary for Housing—Federal Housing Commissioner—
- 23800 4-20-79 / Delivery of one- to four-family properties occupied by tenants or former mortgagors; comments by 6-19-79

INTERIOR DEPARTMENT**Fish and Wildlife Services—**

- 29128 5-18-79 / Endangered and threatened wildlife; review of status of ten birds and two mammals from Guam; comments by 6-17-79

Indian Affairs Bureau—

- 29836 5-22-79 / Education personnel; comments by 6-21-79
- 29832 5-22-79 / Indian education policies; comments by 6-21-79
- 29842 5-22-79 / Indian School equalization program; comments by 6-21-79
- 29834 5-22-79 / Transfer of Indian education functions; comments by 6-21-79

INTERSTATE COMMERCE COMMISSION

- 23101 4-18-79 / Motor transportation of passengers incidental to transportation by aircraft; Savannah, Ga., airport terminal area; Petition to extend exempt zone; comments by 6-18-79

NATIONAL CREDIT UNION ADMINISTRATION

- 26115 5-4-79 / National Credit Union Administration Central Liquidity Facility; membership and lending; comments by 6-18-79

NUCLEAR REGULATORY COMMISSION

- 22746 4-17-79 / Public records; advance notice of proposed rulemaking; comments by 6-18-79
- 32489 6-6-79 / Yellowcake packaging and transportation accidents; comment period extended to 6-21-79
[Originally published at 44 FR 22391, 4-19-79]

PERSONNEL MANAGEMENT OFFICE

- 23530 4-20-79 / Merit pay system; implementation; comments by 6-19-79

SMALL BUSINESS ADMINISTRATION

- 23258 4-19-79 / Leverage to unincorporated small business investment companies; comments by 6-18-79

TRANSPORTATION DEPARTMENT**Coast Guard—**

- 25883 5-3-79 / Special Anchorage Area, Lower Harbor, Marquette, Mich., comments by 6-19-79
- Materials Transportation Bureau—
- 23880 4-23-79 / Incorporation by reference provisions; comments by 6-22-79
- National Highway Traffic Safety Administration—
- 30139 5-24-79 / Uniform fire quality grading; consumer information; comments by 6-20-79

TREASURY DEPARTMENT

Customs Service—

29916 5-23-79 / Revised customs forms to facilitate entry of imported merchandise; comments by 6-22-79

Internal Revenue Service—

22883 4-23-79 / Exclusion from subpart F income of certain earnings of insurance companies; comments by 6-22-79

23880 4-23-79 / Provisions for investment in U.S. property by controlled foreign corporations; comments by 6-22-79

23541 4-20-79 / Qualified retirement plans; minimum participation standards; comments by 6-19-79

23262 4-19-79 / Tax treatment of grantors of certain options to buy or sell property; comments by 6-18-79

Next Week's Meetings

ACTUARIES, JOINT BOARD FOR ENROLLMENT

29996 5-23-79 / Advisory Committee on Actuarial Examinations, Dallas, Tx. (open), 6-20-79

AGING, FEDERAL COUNCIL

30765 5-29-79 / Long-Term Care Committee, Washington, D.C. (open), 6-21-79

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

30142 5-24-79 / Flue-Cured Tobacco Advisory Committee, Raleigh, N.C. (open), 6-21-79

23858 4-23-79 / Beef research and information order, Pittsburgh, Pa. and Hapeville, Ga., 6-19 and 6-21-79

Forest Service—

32715 6-7-79 / National Forest System land resource management planning, Asheville, N.C. (open), 6-20 and 6-21-79

AIR QUALITY, NATIONAL COMMISSION

30174 5-24-79 / Washington, D.C. (open), 6-22-79

ARTS AND HUMANITIES, NATIONAL FOUNDATION

32324 6-5-79 / Architecture, Planning and Design Panel, Washington, D.C. (closed), 6-21 and 6-22-79

30494 5-25-79 / Humanities Panel, Washington, D.C. (closed), 6-21 and 6-22-79

32053 6-4-79 / Theatre Advisory Panel, Washington, D.C. (partially open), 6-21 through 6-23-79

CIVIL RIGHTS COMMISSION

32269 6-5-79 / Iowa Advisory Committee, Des Moines, Iowa (open), 6-21-79

32269 6-5-79 / Minnesota Advisory Committee (open), St. Paul, Minn. (open), 6-20-79

30403 5-25-79 / New Hampshire Advisory Committee, Plymouth, N.H. (open), 6-18-79

30709 5-29-79 / South Carolina Advisory Committee, Columbia, S.C. (open), 6-20-79

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

28835 5-17-79 / Mid-Atlantic Fishery Management Council, King of Prussia, Pa. (open), 6-19 and 6-20-79

32019 6-4-79 / South Atlantic Fishery Management Council, Ft. Pierce, Fla. (open), 6-19-79

COMMODITY FUTURES TRADING COMMISSION

32434 6-6-79 / State Jurisdiction and Responsibilities Advisory Committee, Delavan, Wis. (open), 6-21 and 6-22-79

CONSUMER PRODUCT SAFETY COMMISSION

31275 5-31-79 / Toxicological Advisory Board, Bethesda, Md. (open), 6-18-79

DEFENSE DEPARTMENT

Air Force Department—

29136 5-18-79 / USAF Scientific Advisory Board, Hanscom Air Force Base, Mass. (closed), 6-21 and 6-22-79

31279 5-31-79 / USAF Scientific Advisory Board, Washington, D.C. (closed), 6-18-79

Army Department—

32270 6-5-79 / Army Science Board, Washington, D.C. (closed), 6-20 and 6-21-79

Navy Department—

32270 6-5-79 / Naval Research Advisory Committee, Quantico, Va. and Washington, D.C. (partially open), 6-21 and 6-22-79

Office of the Secretary—

29954 5-23-79 / Defense Advisory Committee on Women in the Services, Washington, D.C. (open), 6-18 and 6-19-79

30148 5-24-79 / Defense Science Board Summer Study Panel on Comprehensive Test Ban, Arlington, Va. (closed), 6-19 and 6-20-79

24335 4-25-79 / Department of Defense Wage Committee, Washington, D.C. (closed), 6-19-79

28396 5-15-79 / Electron Devices Advisory Group, New York, N.Y. (closed), 6-20-79

ECONOMIC OPPORTUNITY, NATIONAL ADVISORY COUNCIL

31049 5-30-79 / Work Program for the Advisory Council 1980 Report, Berkeley, Calif. (open), 6-22 and 6-23-79

ENERGY DEPARTMENT

28706 5-16-79 / Committee on Materials and Manpower Requirements, Regulatory Impact Task Group, Houston, Tx. (open), 6-22-79

28706 5-16-79 / Committee on Unconventional Gas Sources, Tight Gas Reservoirs Task Group, Denver, Colo. (open), 6-22-79

Economic Regulatory Administration—

31701 6-1-79 / Fuel Oil Marketing Advisory Committee, Minneapolis, Minn. (open), 6-19 and 6-20-79

ENVIRONMENTAL PROTECTION AGENCY

31707 6-1-79 / Science Advisory Board, Technology Assessment and Pollution Control Committee, Washington, D.C. (open), 6-20 through 6-22-79

FEDERAL COMMUNICATIONS COMMISSION

31042 5-30-79 / Radio Technical Commission for Marine Services, Executive Committee Meeting, Washington, D.C. (open), 6-21-79

31042 5-30-79 / Radio Technical Commission for Marine Services, Special Committee No. 70, Washington, D.C. (open), 6-18 and 6-19-79

31042 5-30-79 / Radio Technical Commission for Marine Services, Special Committee No. 71, Washington, D.C. (open), 6-20-79

FEDERAL DEPOSIT INSURANCE CORPORATION

30425 5-25-79 / Advisory Committee on State and Federal Regulation of Banks, Washington, D.C. (open), 6-19 and 6-20-79

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

29160 5-18-79 / Washington, D.C. (open), 6-21-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse, and Mental Health, Administration—

28726 5-16-79 / Basic Sociocultural Research Review Committee, Washington, D.C. (partially open), 6-20 through 6-22-79

27746 5-11-79 / Cognition, Emotion, and Personality Research Review Committee, Washington, D.C. (closed), 6-17-79

27746 5-11-79 / Criminal and Violent Behavior Review Committee, Silver Spring, Md. (partially open), 6-20 through 6-22-79

27746 5-11-79 / Epidemiologic and Services Research Review Committee, Chevy Chase, Md. (partially open), 6-18 through 6-20-79

- 28726 5-16-79 / Mental Health Research Education Review Committee, Rockville, Md. (partially open), 6-21 through 6-23-79
- 27746 5-11-79 / Mental Health Small Grant Review Committee, Washington, D.C. (partially open), 6-21 through 6-23-79
Center for Disease Control—
- 31320 5-31-79 / Safety and Occupational Health Study Section, Rockville, Md. (partially open), 6-18 through 6-20-79
Education Office—
- 32741 6-7-79 / Accreditation and Institutional Eligibility Advisory Committee, Alexandria, Va. (open), 6-20 through 6-22-79
- 32479 6-6-79 / Bilingual education national advisory council, Washington, D.C. (open), 6-21 through 6-23-79
- 25270 4-30-79 / Advisory Committee on Accreditation and Institutional Eligibility, Alexandria, Va. (open), 6-20 through 6-22-79
- 29975 5-23-79 / National Advisory Council on Equality of Educational Opportunity, Chicago, Ill. (open), 6-21 and 6-22-79
- 27630 5-10-79 / Population Education Program, Atlanta, Ga. (open), 6-19-79
- 27630 5-10-79 / Population Education Program, Boston, Mass. (open), 6-19-79
- 27630 5-10-79 / Population Education Program, Chicago, Ill. (open), 6-19-79
- 27630 5-10-79 / Population Education Program, Dallas, Tx. (open), 6-19-79
- 27630 5-10-79 / Population Education Program, Denver, Colo. (open), 6-19-79
- 27630 5-10-79 / Population Education Program, Kansas City, Mo. (open), 6-19-79
- 27630 5-10-79 / Population Education Program, New York, N.Y. (open), 6-19-79
- 27630 5-10-79 / Population Education Program, Philadelphia, Pa. (open), 6-19-79
- 27630 5-10-79 / Population Education Program, Sacramento, Calif. (open), 6-19-79
- 27630 5-10-79 / Population Education Program, Seattle, Wash. (open), 6-19-79
- 28238 5-14-79 / Revision of provisions for grants to State educational agencies for educational improvement, resources, and support, all regions (open), 6-19-79
Food and Drug Administration—
- 26899 5-8-79 / Carcinogenic residues in food-producing animals; criteria and procedures for evaluating assays, Washington, D.C., 6-21 and 6-22-79
[Originally published at 44 FR 23538, 4-20-79]
- 28413 5-15-79 / Cardiovascular and Renal Drugs Advisory Committee, Rockville, Md. (open), 6-21 and 6-22-79
National Institutes of Health—
- 31320 5-31-79 / Panel for the Review of Laboratory and Center Operations, Washington, D.C. (open), 6-23-79
- 27265 5-9-79 / Aging Review Committee, Bethesda, Md. (partially open), 6-21 and 6-22-79
- 25265 4-30-79 / "Aplastic Anemia: a Stem Cell Disease," San Francisco, Calif. (open), 6-17 through 6-19-79
- 27266 5-9-79 / Biomedical Library Review Committee, Bethesda, Md. (partially open), 6-18 through 6-20-79
- 27497 5-10-79 / Bio-Psychology Study Section, Washington, D.C. (open), 6-20 through 6-23-79
- 27497 5-10-79 / Cardiovascular and Pulmonary Study Section, Bethesda, Md. (open), 6-19 through 6-23-79
- 29973 5-23-79 / Community Programs and Rehabilitation Work Group, Denver, Colo. (open), 6-21 and 6-22-79
- 28878 5-17-79 / Conference on the Management and Logistics of Blood Banking, St. Petersburg, Fla. (open), 6-21 and 6-22-79
- 27498 5-10-79 / Diagnostic Radiology Study Section, Bethesda, Md. (open), 6-19 through 6-21-79
- 27498 5-10-79 / Experimental Therapeutics Study Section, Chevy Chase, Md. (open), 6-20 through 6-23-79
- 27267 5-9-79 / Genetic Basis of Disease Review Committee, Bethesda, Md. (partially open), 6-18 and 6-19-79
- 27267 5-9-79 / General Clinical Research Centers Committee, Bethesda, Md. (partially open), 6-21 and 6-22-79
- 28880 5-17-79 / Minority Access to Research Careers Review Committee, Bethesda, Md. (open and closed); 6-21 and 6-22-79
- 29973 5-23-79 / National Diabetes Advisory Board, Bethesda, Md. (open), 6-19-79
- 27498 5-10-79 / Neurology A Study Section, Bethesda, Md. (open), 6-20 through 6-23-79
- 27498 5-10-79 / Neurology B Study Section, Washington, D.C. (open), 6-20 through 6-23-79
- 27498 5-10-79 / Nutrition Study Section, Bethesda, Md. (open), 6-20 through 6-22-79
- 27498 5-10-79 / Pathobiological Chemistry Study Section, Chevy Chase, Md. (open), 6-20 through 6-23-79
- 24239 4-24-79 / Sickle Cell Disease Advisory Committee, Bethesda, Md. (open), 6-21 and 6-22-79
Office of the Assistant Secretary for Health—
- 28108 5-14-79 / Health Services Advisory Committees, Washington, D.C. and Rockville, Md. (partially open), 6-20-79
- INTERIOR DEPARTMENT
Land Management Bureau—
- 28430 5-15-79 / Ely District (Nevada) Grazing Advisory Board; Ely, Nev. (open), 6-20-79
- 30449 5-25-79 / Presentation of Nevada wilderness inventory findings, various cities in Nevada (open), 6-19 through 6-21-79
- 30172 5-24-79 / Salt Lake District Grazing Advisory Board, Randolph, Utah (open), 6-19 through 6-21-79
National Park Service—
- 31325 5-31-79 / Chickamauga and Chattanooga National Military Park, Chattanooga, Tenn. (open), 6-20-79
- 31325 5-31-79 / De Soto National Memorial, Bradenton, Fla. (open), 6-21-79
- 31326 5-31-79 / Fort Pulaski National Monument, Savannah, Ga. (open), 6-21-79
Office of the Secretary—
- 32484 6-6-79 / Outer Continental Shelf policy committee, North Atlantic Region, Boston, Mass. (open), 6-21-79
- LABOR DEPARTMENT
Occupational Safety and Health Administration—
- 24252 4-24-79 / Servicing multi-piece ring wheels, Washington, D.C. (open), 6-19-79
- METRIC BOARD
- 31081 5-30-79 / Meeting, Boston, Mass. (open), 6-21 and 6-22-79
- 31048 5-30-79 / Voluntary metric conversion, Boston, Mass. (open), 6-21-79

- NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**
- 29764 5-22-79 / NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Washington, D.C., (open), 6-20 and 6-21-79
- 31049 5-30-79 / NASA Advisory Council (NAC), Space Science Advisory Committee, Washington, D.C. (open), 6-21 through 6-23-79
- 31649 5-30-79 / NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee, Washington, D.C. (open), 6-19 and 6-20-79
- 31754 6-1-79 / Space and Terrestrial Applications Steering Committee Proposal Evaluation Advisory Subcommittee, Hampton, Va. (closed), 6-18 through 6-22-79
- NATIONAL SCIENCE FOUNDATION**
- 31754 6-1-79 / Advisory Council Task Group No. 8, Cambridge, Mass. (open), 6-18-79
- NUCLEAR REGULATORY COMMISSION**
- 29183 5-18-79 / Portland General Electric Co., et al., Portland, Oreg. (open), 6-20-79
- 32054 6-4-79 / Reactor Safeguards Advisory Committee, Emergency Core Cooling Systems Subcommittee, Washington, D.C. (open), 6-19 and 6-20-79
- PENSION POLICY, PRESIDENT'S COMMISSION**
- 31336 5-31-79 / Meeting, Washington, D.C. (open), 6-22-79
- SECURITIES AND EXCHANGE COMMISSION**
- 31336 5-31-79 / Advisory Committee on Oil and Gas Accounting, Washington, D.C. (open), 6-19-79
- SMALL BUSINESS ADMINISTRATION**
- 31055 5-30-79 / Region III Advisory Council Executive Board, Bala Cynwyd, Pa. (open), 6-21-79
- STATE DEPARTMENT**
- Office of the Secretary—
- 25718 5-2-79 / International Investment, Technology, and Development Advisory Committee, Washington, D.C. (open), 6-20-79
- 28905 5-17-79 / Ocean Affairs Advisory Committee, Washington, D.C. (open), 6-19-79
- 31760 6-1-79 / Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. 6-21-79
- 29785 5-22-79 / Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR), San Diego, Calif. (open), 6-22-79
- 28438 5-15-79 / U.S. Organization for the International Radio Consultative Committee, Study Group 5, Seattle, Wash. (open), 6-19-79
- TRANSPORTATION DEPARTMENT**
- Coast Guard—
- 32059 6-4-79 / New York Harbor Vessel Traffic Service Advisory Committee, New York, N.Y. (open), 6-20-79
- Federal Aviation Administration—
- 28825 5-17-79 / Informal airspace meeting, Las Vegas, Nev., 6-19-79
- 31242 5-31-79 / Informal Air Space Meeting No. 56, San Leandro, Calif., 6-22-79
- 23402 4-19-79 / Jacksonville, Fla. terminal control area, Jacksonville, Fla. (open), 6-19-79
- 32001 6-4-79 / Terminal control area, Los Angeles, informal airspace meeting, Culver City, Calif., 6-19 and Van Nuys, Calif., 6-21-79 (both open)
- Federal Highway Administration—
- 29787 5-22-79 / National Advisory Committee on Uniform Traffic Control Devices; Termination of Committee, Washington, D.C. (open), 6-20-79

- National Highway Traffic Safety Administration—
- 28126 5-14-79 / National Driver Register Study, Clearwater Beach, Fla. and Claymont, Del. (open), 6-18-79 and 6-20-79
- 30187 5-24-79 / National Highway Safety Advisory Committee, Washington, D.C. (open), 6-19 through 6-21-79
[See also 44 FR 15823, Mar. 15, 1979; 44 FR 26402, Apr. 19, 1979]
- 15823 3-15-79 / Public Industry Technical Meetings, Ann Arbor, Mich. (open), 6-20-79
- 15822 3-15-79 / Regional Child Restraint Workshops, Seattle, Wash. (open), 6-21 and 6-22-79
- 15823 3-15-79 / Regional Safety Belt Usage Workshops, New York, N.Y. (open), 6-20 and 6-22-79
- 28906 5-17-79 / Safety, Bumper and Consumer Information Programs, Ann Arbor, Mich. (open), 6-20-79
- VETERANS' ADMINISTRATION**
- 29805 5-22-79 / Station Committee on Educational Allowances, Nashville, Tenn. (open), 6-18-79

Next Week's Public Hearings

- AGRICULTURE DEPARTMENT**
- Agricultural Marketing Service—
- 32708 6-7-79 / Milk in Paducah, Ky. Marketing area, Paducah, Ky., 6-22-79
- Animal and Plant Health Inspection Service—
- 26089 5-4-79 / Gypsy Moth and Browntail Moth quarantine, Chicago, Ill., 6-19-79
- Rural Electrification Administration—
- 30353 5-25-79 / Proposed revision of REA environmental policies and procedures, Denver, Colo., 6-18; Little Rock, Ark., 6-19; Washington, D.C., 6-22-79
- 24899 4-27-79 / Texas/Great Lakes—Eastern Canada Service Investigation, Washington, D.C., 6-19-79
- COMMERCE DEPARTMENT**
- National Oceanic and Atmospheric Administration—
- 32018 6-4-79 / Proposed Elkhorn Slough Estuarine Sanctuary, environmental impact, Monterey, Calif., 6-20-79
- ENERGY DEPARTMENT**
- Economic Regulatory Administration—
- 31162 5-31-79 / Imports of middle distillates, emergency adoption of final rule providing entitlement benefits, Washington, D.C., 6-20-79
- 26712 5-4-79 / Mandatory petroleum allocation; motor gasoline allocation base period and adjustments; San Francisco, Calif., 6-19-79
- Federal Energy Regulatory Commission—
- 29090 5-18-79 / Alternative full cost ceiling on incremental pricing under the Natural Gas Policy Act of 1978, Washington, D.C., 6-18-79
- 30726 5-29-79 / American Electric Power Service Corp., oral argument, Washington, D.C., 6-20-79
- 29101 5-18-79 / Natural Gas Policy Act of 1978, procedures to assess civil penalties for knowing violations, Washington, D.C. 6-22-79
- ENVIRONMENTAL PROTECTION AGENCY**
- 32470 6-6-79 / Diesel NO_x emission standard, Washington, D.C. 6-21-79
- FEDERAL RESERVE SYSTEM**
- 25850 5-3-79 / Electronic Funds Transfer; Washington, D.C., 6-18 and 6-19-79
- HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
- National Institutes of Health—
- 16498 3-19-79 / National Diabetes Advisory Board, long-range plan to combat diabetes, St. Louis, Mo., 6-20-79

INTERIOR DEPARTMENT

30770 Land Management Bureau—
5-29-79 / North Atlantic OCS oil and gas sale No. 42, Somerville, Mass., 6-20-79

LABOR DEPARTMENT

29692 Mine Safety and Health Administration—
5-22-79 / Mine Rescue Teams, 6-19 through 6-21-79

NUCLEAR REGULATORY COMMISSION

30786 5-29-79 / Atomic Safety and Licensing Appeal Board, Bethesda, Md., 6-18-79

33502 6-11-79 / Cincinnati Gas and Electric Co. (William H. Zimmer Nuclear Station) Cincinnati, Ohio, 6-19-79

SECURITIES AND EXCHANGE COMMISSION

26688 5-4-79 / Off-board trading restrictions; Washington, D.C., 6-20-79

TRANSPORTATION DEPARTMENT**Federal Highway Administration—**

28946 5-17-79 / Highway beautification program reassessment, Atlanta, Ga., 6-19-79

28946 5-17-79 / Highway beautification program reassessment, Dallas, Tex. 6-19-79

28946 5-17-79 / Highway beautification program reassessment, Denver, Colo., 6-18-79

Federal Railroad Administration—

29787 5-22-79 / Consolidated Rail Corp. Hearing, Allentown, Pa., 6-22-79

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing June 12, 1979

Documents Relating to Federal Grants Programs

This is a list of documents relating to Federal grants programs which were published in the Federal Register during the previous week.

RULES GOING INTO EFFECT

32359 6-8-79 / Commerce/EDA—Organizational structure of economic development districts and assistance under grant and loan programs; effective 6-8-79

33372 6-8-79 / HUD/CPD—Community development block grants; Urban development action grants; effective 6-28-79

DEADLINES FOR COMMENTS ON PROPOSED RULES

33372 6-8-79 / HUD/CPD—Community development block grants; Urban development action grants; comments by 8-7-79

33184 6-8-79 / LSC—Grants and contracts; Arizona; comments or recommendations

33022 6-7-79 / HEW/OE—Proposed rules for Corrective Education Demonstration Program; comments by 8-6-79

33036 6-7-79 / HEW/OE—Preschool Partnership Program; comments by 8-6-79

33028 6-7-79 / HEW/OE—Safe Schools Program; proposed regulations; comments by 8-6-79

APPLICATIONS DEADLINES

32285 6-5-79 / HEW/HDSO—Native Hawaiian Economic Development Program project; apply by 7-30-79

32289 6-5-79 / HEW/HDSO—Rehabilitation short-term training projects of regional scope; apply by 7-13-79

32287 6-5-79 / HEW/HDSO—Social Development Program projects; apply by 7-30-79

32754 6-7-79 / Justice/LEAA—Evaluation of Law-Related Education Program; solicitation for grant applications; apply by 7-6-79

MEETINGS

32044 6-4-79 / HEW/ADMHA—National advisory committees, Bethesda and Rockville, Md. (partially open), 6-20 through 6-25-79 and 6-25 through 6-29-79

33022 6-7-79 / HEW/OE—Proposed rules for Correction Education Demonstration Program; meetings in each of the ten regions, 7-11-79

33036 6-7-79 / HEW/OE—Preschool Partnership Program; meetings in each of the ten regions; 7-9-79

33028 6-7-79 / HEW/OE—Proposed rules for Safe Schools Program; meetings in each of ten regions, 7-11-79

32045 6-4-79 / HEW/NIH—Allergy and Clinical Immunology Research Committee, Bethesda, Md. (open), 6-11 and 6-12 meeting rescheduled to 6-12-79 only
[See also 44 FR 27268, 5-9-79]

32045 6-4-79 / HEW/NIH—Cancer Control Grant Review Committee, Bethesda, Md. (partially open), 6-10 through 6-12-79

32046 6-4-79 / HEW/NIH—General Medicine B Study Section, Bethesda, Md. (partially open), 6-27 through 6-30 meeting rescheduled to 6-28 through 6-30-79
[See also 44 FR 27497, 5-10-79]

32045 6-4-79 / HEW/NIH—General Research Support Review Committee, Bethesda, Md. (partially open), 6-28 and 6-29-79

32046 6-4-79 / HEW/NIH—Microbial Chemistry Study Section, Bethesda, Md. (partially open), 6-6 through 6-8 meeting rescheduled to 6-7 and 6-8-79
[See also 44 FR 27497, 5-10-79]

32046 6-4-79 / HEW/NIH—Transplantation Biology and Immunology Committee, Bethesda, Md. (partially open), 6-14 and 6-15 meeting rescheduled to 6-15-79 only
[See also 44 FR 27268, 5-9-79]

32486 6-8-79 / NFAH—Architecture, planning, and design meetings and discussions given by grant applicants, Washington, D.C. (open) 6-25, 6-26, 6-28 and 6-29

32053 6-4-79 / NFAH—Artists-in-Schools Advisory Panel, Durham, N.C. (open), 6-25 through 6-27-79

32053 6-4-79 / NFAH—Media Arts Advisory Panel, Washington, D.C. (closed), 6-18 and 6-19-79

32053 6-4-79 / NFAH—Theatre Advisory Panel, Washington, D.C. (partially open), 6-21 through 6-24-79

33190 6-8-79 / NSF—Applied Science and Research Applications Policy Advisory Committee, Subcommittee for Applied Social and Behavioral Sciences, Washington, D.C. (closed), 6-25 and 6-26-79

33190 6-8-79 / NSF—Applied Science and Research Applications Policy Advisory Committee, Subcommittee for Applied Physical, Mathematical, and Biological Sciences and Engineering Sciences, Washington, D.C. (closed), 6-28 and 6-29-79

OTHER ITEMS OF INTEREST

32741 6-7-79 / HEW/HRA—Determination of population of health service areas

32743 6-7-79 / HEW/HRA—Determination of population of States

32407 6-6-79 / HUD/Sec.—Community Development Block Grants, Small Cities Program; transmittal of interim rule to Congress

CODE OF FEDERAL REGULATIONS

(Revised as of July 1, 1978)

<u>Quantity</u>	<u>Volume</u>	<u>Price</u>	<u>Amount</u>
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[A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

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